

# **EXHIBIT 5**

1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE NORTHERN DISTRICT OF OHIO  
3           EASTERN DIVISION  
4           -   -   -  
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6           IN RE:    NATIONAL                         :   HON. DAN A.  
7           PRESCRIPTION OPIATE                   :   POLSTER  
8           LITIGATION                             :  
9   :  
10          APPLIES TO ALL CASES                   :   NO.  
11   :   1:17-MD-2804  
12   :  
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14                         - HIGHLY CONFIDENTIAL -  
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16           SUBJECT TO FURTHER CONFIDENTIALITY REVIEW  
17  
18                         -   -   -  
19

20                                 March 13, 2019  
21                         -   -   -  
22

23                                 Videotaped deposition of  
24           HUGH M. O'NEILL, taken pursuant to  
notice, was held at the offices of  
Courtyard by Marriott Basking Ridge, 595  
Martinsville Road, Basking Ridge, New  
Jersey, beginning at 10:59 a.m., on the  
above date, before Michelle L. Gray, a  
Registered Professional Reporter,  
Certified Shorthand Reporter, Certified  
Realtime Reporter, and Notary Public.

                             -   -   -

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<p style="text-align: right;">Page 10</p> <p>1           - - -</p> <p>2           THE VIDEOGRAPHER: We are</p> <p>3           now on the record. My name is</p> <p>4           Henry Marte. I'm a videographer</p> <p>5           with Golkow Litigation Services.</p> <p>6           Today's date is March 13,</p> <p>7           2019. And the time is 10:59 a.m.</p> <p>8           This videotaped deposition</p> <p>9           is being held at the Marriott,</p> <p>10          Basking Ridge, New Jersey, in the</p> <p>11          matter of National Prescription</p> <p>12          Opiate Litigation.</p> <p>13          The deponent is Hugh</p> <p>14          O'Neill.</p> <p>15          All appearances are noted on</p> <p>16          the stenographic record.</p> <p>17          Will the court reporter</p> <p>18          please administer the oath to the</p> <p>19          witness.</p> <p>20          - - -</p> <p>21          ... HUGH M. O'NEILL, having</p> <p>22          been first duly sworn, was</p> <p>23          examined and testified as follows:</p> <p>24          - - -</p>	<p style="text-align: right;">Page 12</p> <p>1   that he is?</p> <p>2       A.   I am.</p> <p>3       Q.   What is your job with</p> <p>4   Mallinckrodt today?</p> <p>5       A.   I'm brand executive vice</p> <p>6   president chief commercial marketer for</p> <p>7   the branded business.</p> <p>8       Q.   For what organization?</p> <p>9       A.   Mallinckrodt</p> <p>10   Pharmaceuticals.</p> <p>11      Q.   And what is Mallinckrodt</p> <p>12   PLC?</p> <p>13      A.   Mallinckrodt PLC is the, if</p> <p>14   I understand correctly, I believe it's</p> <p>15   the holding company for the other</p> <p>16   subsidiaries of the organization.</p> <p>17      Q.   And what organization</p> <p>18   actually pays your salary?</p> <p>19      A.   Mallinckrodt</p> <p>20   Pharmaceuticals. Mallinckrodt.</p> <p>21      Q.   Is that Mallinckrodt PLC or</p> <p>22   do you know?</p> <p>23      A.   I do not know.</p> <p>24      Q.   And do you receive a</p>
<p style="text-align: right;">Page 11</p> <p>1           EXAMINATION</p> <p>2           - - -</p> <p>3   BY MR. CHALOS:</p> <p>4       Q.   Mr. O'Neill, thank you for</p> <p>5   being here today. You must be a very</p> <p>6   important guy; is that right?</p> <p>7       A.   I don't believe that. But I</p> <p>8   appreciate that.</p> <p>9       Q.   Well, in the room today</p> <p>10   we've got two lawyers from Ropes &amp; Gray.</p> <p>11      A.   That's true, yes.</p> <p>12      Q.   There was a man here earlier</p> <p>13   who I think who is going to come back</p> <p>14   named Mark Casey.</p> <p>15      A.   Yes, that's correct.</p> <p>16      Q.   Who is that?</p> <p>17      A.   General counsel of the</p> <p>18   company.</p> <p>19      Q.   Is he your boss?</p> <p>20      A.   No.</p> <p>21      Q.   What is his relationship to</p> <p>22   you in the hierarchy?</p> <p>23      A.   Colleagues.</p> <p>24      Q.   Are you at the same level</p>	<p style="text-align: right;">Page 13</p> <p>1   paycheck or is it direct deposited?</p> <p>2       A.   It's direct deposited.</p> <p>3       (Document marked for</p> <p>4   identification as Exhibit</p> <p>5   Mallinckrodt-O'Neill-1.)</p> <p>6   BY MR. CHALOS:</p> <p>7       Q.   Let me hand you what we're</p> <p>8   going to mark as Exhibit Number 1.</p> <p>9       It is a document</p> <p>10   Bates-numbered MNK-T1_0008592808 through</p> <p>11   2810.</p> <p>12       This is -- there you go.</p> <p>13       MR. CHALOS: Could you pass</p> <p>14   that to the witness.</p> <p>15       MR. O'CONNOR: Take your</p> <p>16   time.</p> <p>17   BY MR. CHALOS:</p> <p>18      Q.   What we've handed to you as</p> <p>19   Exhibit 1 I'll represent to you was</p> <p>20   produced to us through Mallinckrodt's</p> <p>21   lawyers. And it appears to be your CV.</p> <p>22   But if you take a minute to look that</p> <p>23   over and confirm that for me, if you</p> <p>24   would.</p>

<p style="text-align: right;">Page 14</p> <p>1 A. It is my CV.</p> <p>2 Q. Did you prepare this</p> <p>3 document?</p> <p>4 A. I did.</p> <p>5 Q. When did you last update</p> <p>6 this?</p> <p>7 A. I don't know the exact date.</p> <p>8 Sometime in 2018.</p> <p>9 Q. And for what reason did you</p> <p>10 update this document?</p> <p>11 A. My title was changed in May</p> <p>12 of 2018.</p> <p>13 Q. Was that a promotion?</p> <p>14 A. It was.</p> <p>15 Q. Were you looking for a job</p> <p>16 at that time?</p> <p>17 A. I was not.</p> <p>18 Q. Are you looking for a job</p> <p>19 currently?</p> <p>20 A. I am not.</p> <p>21 Q. When was the last time that</p> <p>22 you were actively looking for a job?</p> <p>23 A. Five years ago when I joined</p> <p>24 the company. Five and a half years ago.</p>	<p style="text-align: right;">Page 16</p> <p>1 autoimmune rare disease.</p> <p>2 BY MR. CHALOS:</p> <p>3 Q. Autoimmune?</p> <p>4 A. Rare disease.</p> <p>5 Q. Okay. Looking at Exhibit 1,</p> <p>6 is everything that's set forth in</p> <p>7 Exhibit 1 accurate to the best of your</p> <p>8 knowledge?</p> <p>9 MR. O'CONNOR: Objection.</p> <p>10 THE WITNESS: It is my CV,</p> <p>11 yes.</p> <p>12 BY MR. CHALOS:</p> <p>13 Q. Is the information contained</p> <p>14 within Exhibit 1 accurate to the best of</p> <p>15 your knowledge?</p> <p>16 MR. O'CONNOR: Objection.</p> <p>17 THE WITNESS: It is.</p> <p>18 BY MR. CHALOS:</p> <p>19 Q. Let's go back to the time</p> <p>20 when you started at Mallinckrodt. That</p> <p>21 was in 2013; is that right?</p> <p>22 A. That is correct.</p> <p>23 Q. Okay. How did you come to</p> <p>24 work for Mallinckrodt?</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. Okay. So it has you listed</p> <p>2 here as the executive vice president</p> <p>3 chief commercial officer based in</p> <p>4 Bedminster, New Jersey. That's your</p> <p>5 current role?</p> <p>6 A. That's my current role.</p> <p>7 Q. Okay. What do you do? You</p> <p>8 list some bullet points here, six bullet</p> <p>9 points of a description of your job. Are</p> <p>10 those all accurate?</p> <p>11 MR. O'CONNOR: Objection.</p> <p>12 BY MR. CHALOS:</p> <p>13 Q. Let me ask that again. You</p> <p>14 list six bullet points here under your</p> <p>15 title as executive vice president, chief</p> <p>16 commercial officer. Are those</p> <p>17 descriptions accurate?</p> <p>18 MR. O'CONNOR: Objection.</p> <p>19 THE WITNESS: What I do in</p> <p>20 the job, I have responsibility for</p> <p>21 the entire branded business</p> <p>22 currently, which is made up of</p> <p>23 two -- two groups, one is a</p> <p>24 hospital business and one is in</p>	<p style="text-align: right;">Page 17</p> <p>1 A. Through an executive</p> <p>2 recruiter.</p> <p>3 Q. At the time that you --</p> <p>4 immediately prior to moving to</p> <p>5 Mallinckrodt, you worked for a company</p> <p>6 called Sanofi; is that correct?</p> <p>7 A. That is correct.</p> <p>8 Q. Who did you interview with</p> <p>9 at Mallinckrodt when you first joined the</p> <p>10 company?</p> <p>11 A. I interviewed with a panel</p> <p>12 of individuals including members of the</p> <p>13 board of directors, as well as members of</p> <p>14 the executive committee at the time.</p> <p>15 Q. Do you remember any names?</p> <p>16 A. Ian Watkins, who is the head</p> <p>17 of HR for us. At the time Matt Harbaugh</p> <p>18 was the chief financial officer. Melvin,</p> <p>19 who's the chairman of the board, couple</p> <p>20 members of the board, and also Mark</p> <p>21 Trudeau.</p> <p>22 Q. Okay. When you said board,</p> <p>23 what do you mean by that?</p> <p>24 A. It's the board of directors</p>



<p style="text-align: right;">Page 18</p> <p>1 of the company.</p> <p>2 Q. Do you know of what company?</p> <p>3 A. Mallinckrodt.</p> <p>4 Q. Is that Mallinckrodt PLC?</p> <p>5 A. I don't know whether it's</p> <p>6 Mallinckrodt -- it's -- the way I think</p> <p>7 about it, it's Mallinckrodt.</p> <p>8 Q. You think of it all as one</p> <p>9 company?</p> <p>10 A. Well, I think about it as</p> <p>11 Mallinckrodt Pharmaceuticals, and then</p> <p>12 the way I think about it there's</p> <p>13 subsidiaries attached to it. But the</p> <p>14 board is the board that help steer the</p> <p>15 company, Mallinckrodt. Whether that's</p> <p>16 PLC or not, I don't know.</p> <p>17 Q. Okay. Does the board make</p> <p>18 all of the material decisions for the</p> <p>19 pharmaceuticals business?</p> <p>20 MR. O'CONNOR: Objection.</p> <p>21 THE WITNESS: The board is</p> <p>22 there to help us strategically set</p> <p>23 the direction of the company and</p> <p>24 challenge our strategy and to</p>	<p style="text-align: right;">Page 20</p> <p>1 MR. O'CONNOR: Objection.</p> <p>2 THE WITNESS: I reported</p> <p>3 directly to the CEO of the company</p> <p>4 at the time, and I still do. Mark</p> <p>5 Trudeau was the CEO. I'm a member</p> <p>6 of the executive committee. The</p> <p>7 executive committee has</p> <p>8 responsibility directly through</p> <p>9 Mark and to the board.</p> <p>10 BY MR. CHALOS:</p> <p>11 Q. Okay. So let's go back and</p> <p>12 talk about the time 2013 to 2015 when you</p> <p>13 were the senior vice president and</p> <p>14 president of specialty pharmaceuticals.</p> <p>15 Okay?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. What were you senior</p> <p>18 vice president of?</p> <p>19 A. I had responsibility for all</p> <p>20 of the business -- businesses that the</p> <p>21 company had at that point in time, which</p> <p>22 included a small branded piece of the</p> <p>23 business, as well as the generic business</p> <p>24 and the active pharmaceutical ingredients</p>
<p style="text-align: right;">Page 19</p> <p>1 think about how we're actually</p> <p>2 building the business. But the</p> <p>3 operational piece of the business</p> <p>4 is actually run by myself and an</p> <p>5 operating committee which consists</p> <p>6 of finance and some of the</p> <p>7 manufacturing folks.</p> <p>8 BY MR. CHALOS:</p> <p>9 Q. Okay. And that's -- are you</p> <p>10 talking about at the present time or</p> <p>11 during the entire time?</p> <p>12 A. During that time. During</p> <p>13 that time and the present time.</p> <p>14 Q. Okay. So during the entire</p> <p>15 time that you've been working for</p> <p>16 Mallinckrodt, what you just described was</p> <p>17 the role of the board of directors?</p> <p>18 MR. O'CONNOR: Objection.</p> <p>19 THE WITNESS: As I</p> <p>20 understand it, yes.</p> <p>21 BY MR. CHALOS:</p> <p>22 Q. Okay. Were you directly</p> <p>23 answerable to the board of directors in</p> <p>24 all of your positions at Mallinckrodt?</p>	<p style="text-align: right;">Page 21</p> <p>1 or API business.</p> <p>2 The only businesses that I</p> <p>3 did not have responsibility for were the</p> <p>4 imaging business, which was the contrast</p> <p>5 media and the nuclear imaging business.</p> <p>6 Q. And that has since been</p> <p>7 sold?</p> <p>8 A. That is correct, yes.</p> <p>9 Q. And in your role as senior</p> <p>10 vice president and president of specialty</p> <p>11 pharmaceuticals, you were answerable to</p> <p>12 Mr. Trudeau?</p> <p>13 A. I was -- reported directly</p> <p>14 to Mark. And I was responsible for the</p> <p>15 management of the business on a daily</p> <p>16 operations, on a daily basis, yes.</p> <p>17 Q. What was the line between a</p> <p>18 decision that you could make and a</p> <p>19 decision that you would need Mr. Trudeau</p> <p>20 to make for you at the time when you were</p> <p>21 senior vice president and president of</p> <p>22 specialty pharmaceuticals?</p> <p>23 MR. O'CONNOR: Objection.</p> <p>24 THE WITNESS: So the daily</p>

<p style="text-align: right;">Page 22</p> <p>1 operation of the business was my 2 responsibility. That includes the 3 management of the budget, that 4 includes the delivery of the -- 5 the sales targets, the operation 6 plan, the manufacturing plan. And 7 we did that through an operating 8 committee, also known as an OC. 9 The operating committee was 10 chaired by myself, as well as the 11 gentleman who was responsible for 12 manufacturing and the financial 13 head. And we ran the business and 14 made those daily operational 15 decisions. 16 Mark's role was not a member 17 of the OC. He was not a part of 18 that. Mark's role was more around 19 the overall strategic direction of 20 the company, policy issues, those 21 type of things. 22 But the running of the 23 business on a daily basis was run 24 by the OC.</p>	<p style="text-align: right;">Page 24</p> <p>1 him, but the decision was the 2 operating committee's decision. 3 BY MR. CHALOS: 4 Q. Was the decision already 5 made by the time you informed 6 Mr. Trudeau? 7 A. I don't recall the timing of 8 when we had the conversation, whether it 9 was before or after. 10 Q. Okay. Did Mr. Trudeau have 11 input into the decision as to whether to 12 continue promoting Xartemis? 13 MR. O'CONNOR: Objection. 14 THE WITNESS: Mark has 15 always had an opinion, but the 16 decision ultimately was the 17 operating committee's. 18 BY MR. CHALOS: 19 Q. Okay. Was the -- were the 20 people on the operating committee, did 21 they change during -- at any point during 22 the time 2013 to 2015? 23 A. I don't think so. I think 24 it was myself, the head of manufacturing</p>
<p style="text-align: right;">Page 23</p> <p>1 BY MR. CHALOS: 2 Q. And for what decisions would 3 you need input from the board of 4 directors? 5 A. It was the normal, probably 6 once or twice a year. It was strategic 7 plan. So we would review the strategic 8 plan of the company, where we're going, 9 where we're going, what are the choices 10 that we think we should make. The 11 overall budget of the company and any 12 specific updates as it relates to mergers 13 and acquisitions and business development 14 targets. 15 Q. There was a time when the 16 company decided to no longer promote 17 Xartemis; is that true? 18 A. That is correct, yes. 19 Q. Who made that decision? 20 A. The operating committee. 21 Q. Did you need to get approval 22 from Mr. Trudeau for that? 23 MR. O'CONNOR: Objection. 24 THE WITNESS: I informed</p>	<p style="text-align: right;">Page 25</p> <p>1 which was Dr. Frank Scholz, and the CFO 2 at the time, which was Matt Harbaugh. 3 There were meetings where Matt wouldn't 4 attend and he'd send a surrogate, which 5 was usually the head of his financial 6 group. But those were the three core. 7 Q. Who was the head of 8 Mr. Harbaugh's financial group? 9 A. Actually at the time it -- 10 it changed. Trying to remember. George 11 Kegler was one. And then also Barbara 12 Bowden who came in later. 13 MR. CHALOS: Is he talking 14 too fast for you? 15 THE REPORTER: No, it's 16 fine. 17 MR. CHALOS: Okay. Okay. 18 Just wanted to -- 19 THE WITNESS: Tell me if I'm 20 speaking too fast. Just let me 21 know. 22 MR. CHALOS: That's fine -- 23 it's fine for me, but she's trying 24 to take it all down. So just</p>



<p style="text-align: right;">Page 26</p> <p>1 wanted to make sure we're not 2 getting ahead of her. 3 BY MR. CHALOS: 4 Q. Have you ever given a 5 deposition before? 6 A. I have. 7 Q. On how many occasions? 8 A. I'm sorry? 9 Q. On how many occasions? 10 A. Two, three. I can't 11 remember the exact number. But I've done 12 it before. 13 Q. Okay. And what context did 14 you give those depositions? 15 A. Previous professional issues 16 related to litigation. My previous 17 organization, as well as personally on -- 18 on an item as well. 19 Q. Okay. Let's talk about the 20 professional ones. Have you given a 21 deposition since you started working at 22 Mallinckrodt? 23 A. I have not. 24 Q. Who were you working for at</p>	<p style="text-align: right;">Page 28</p> <p>1 partnership with in that -- with that 2 business? 3 A. It was a -- if I remember 4 correctly, it was a -- it was a pain 5 cream ointment that was to be used for 6 osteoarthritis patients. And we ended 7 the partnership because of the lack of 8 successful development of the product. 9 Q. Do you have a ballpark on 10 the time that you gave that deposition? 11 MR. O'CONNOR: Objection. 12 THE WITNESS: I don't 13 recall. 14 BY MR. CHALOS: 15 Q. You were with Sanofi from 16 2003 through 2013? 17 A. That is correct. 18 Q. Do you remember if it was 19 towards the beginning or towards the end 20 of your time there? 21 A. It was towards the end. 22 Q. Were you -- was the 23 deposition during the time that you were 24 general manager/president of Sanofi</p>
<p style="text-align: right;">Page 27</p> <p>1 the time you gave a deposition? 2 A. Sanofi. 3 Q. Okay. And what was the 4 nature of that lawsuit? 5 A. At the time I was the head 6 of the Canadian business for -- for 7 Sanofi, and we had a partnership with a 8 company that did not end the way that the 9 partner that -- wanted it to end, and we 10 terminated that agreement and it ended up 11 resulting in a lawsuit and there were 12 depositions attached to it. 13 Q. Okay. Where was that 14 lawsuit filed, do you know? 15 A. I don't remember. 16 Q. In the U.S.? 17 A. I don't recall. I believe 18 so. I believe so, but I'm not sure. 19 Q. What was the name of that 20 partner? 21 A. I don't remember to be 22 honest with you. I don't recall. 23 Q. What -- what type of 24 business were -- was Sanofi in</p>	<p style="text-align: right;">Page 29</p> <p>1 Canada? 2 A. It was actually after that. 3 Q. Okay. So sometime 2012 or 4 2013? 5 A. Yeah. It might even be 6 after I left the organization. I don't 7 recall exactly the dates, but... 8 Q. Okay. And you mentioned a 9 personal deposition involving a personal 10 matter. Without giving me too much 11 detail, what was the nature of that? 12 A. It was divorce proceedings. 13 Q. Was that here in New Jersey? 14 A. It was. 15 Q. What time frame was that? 16 A. '06, '07. 17 Q. In what county? 18 A. God bless you. 19 Q. What county? 20 A. Morris County. 21 Q. Do you live in New Jersey 22 now? 23 A. I split my time between 24 Missouri and New Jersey.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. Is that an arrangement that</p> <p>2 you have plans to change at some point?</p> <p>3 A. It's a temporary</p> <p>4 arrangement. Ultimately we'll move back</p> <p>5 to New Jersey. But we have not done that</p> <p>6 yet.</p> <p>7 Q. Do you have a time frame for</p> <p>8 when you plan to move here full-time?</p> <p>9 A. Not -- not particularly.</p> <p>10 Sometime within the next probably six to</p> <p>11 12 months.</p> <p>12 Q. Okay. So let's go back to</p> <p>13 the time when you were senior vice</p> <p>14 president and president of specialty</p> <p>15 pharmaceuticals at Mallinckrodt.</p> <p>16 During that time, you were</p> <p>17 responsible for the company's opioids</p> <p>18 business; is that right?</p> <p>19 A. That is correct, yes.</p> <p>20 Q. And that includes both the</p> <p>21 branded opioids and the generic opioids?</p> <p>22 A. That is correct, yes.</p> <p>23 Q. Did that also include the</p> <p>24 active pharmaceutical ingredients</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. At the time, did</p> <p>2 Mallinckrodt have any businesses at the</p> <p>3 shipping end of those products? In other</p> <p>4 words, did Mallinckrodt have businesses</p> <p>5 overseas that imported the materials into</p> <p>6 the United States?</p> <p>7 A. I don't recall. I don't</p> <p>8 recall that.</p> <p>9 Q. And when I'm talking about</p> <p>10 raw materials, what are the raw materials</p> <p>11 that went into the API business during</p> <p>12 the time that you were the president and</p> <p>13 specialty pharmaceuticals division?</p> <p>14 MR. O'CONNOR: Objection.</p> <p>15 THE WITNESS: So the API</p> <p>16 business consisted of a couple of</p> <p>17 different major forms. One was</p> <p>18 acetaminophen, which as you know</p> <p>19 is a rough form of Tylenol, which</p> <p>20 we manufacture, as well as</p> <p>21 controlled substances such as</p> <p>22 hydrocodone, oxycodone, and</p> <p>23 others, that were used in our</p> <p>24 finished products as well supplied</p>
<p style="text-align: right;">Page 31</p> <p>1 business?</p> <p>2 A. It did.</p> <p>3 Q. With respect to the active</p> <p>4 pharmaceutical ingredients business,</p> <p>5 where did those raw materials come from?</p> <p>6 MR. O'CONNOR: Objection.</p> <p>7 THE WITNESS: I don't really</p> <p>8 recall the exact location. I know</p> <p>9 that there were raw materials that</p> <p>10 came in for processing API. I</p> <p>11 believe some of them came from</p> <p>12 outside the country. I don't</p> <p>13 remember exactly where.</p> <p>14 BY MR. CHALOS:</p> <p>15 Q. Okay. How did those</p> <p>16 materials get into the United States?</p> <p>17 MR. O'CONNOR: Objection.</p> <p>18 THE WITNESS: They got</p> <p>19 through normal clearance through</p> <p>20 the DEA and through shipping into</p> <p>21 the company and into the country</p> <p>22 and we were authorized to receive</p> <p>23 the product and then manufacture.</p> <p>24 BY MR. CHALOS:</p>	<p style="text-align: right;">Page 33</p> <p>1 to other potential manufacturers.</p> <p>2 BY MR. CHALOS:</p> <p>3 Q. And so the raw materials,</p> <p>4 let's talk about for hydrocodone,</p> <p>5 oxycodone, what were the raw materials</p> <p>6 that went into those products?</p> <p>7 MR. O'CONNOR: Objection.</p> <p>8 THE WITNESS: I don't really</p> <p>9 recall. I had responsibility for</p> <p>10 the front-end of the business.</p> <p>11 There were manufacturing people</p> <p>12 that did all those pieces.</p> <p>13 BY MR. CHALOS:</p> <p>14 Q. Is that something that</p> <p>15 Dr. Scholz would know about?</p> <p>16 MR. O'CONNOR: Objection.</p> <p>17 THE WITNESS: I can't speak</p> <p>18 on what Frank would know or not.</p> <p>19 I don't know.</p> <p>20 BY MR. CHALOS:</p> <p>21 Q. Is Dr. Scholz, he was in</p> <p>22 charge of manufacturing operation at that</p> <p>23 time?</p> <p>24 A. He was.</p>

<p style="text-align: right;">Page 34</p> <p>1 Q. What role did you have 2 during the time that you were president 3 of specialty pharmaceuticals division in 4 terms of the marketing messaging for the 5 branded products? 6 A. So I had a group of people 7 that had responsibility for marketing and 8 sales on the branded side, just as I had 9 a group of people that were responsible 10 for the management of the generic 11 business. They had responsibility for 12 developing the strategies, the messaging, 13 the launch, the overall approach to the 14 marketplace. 15 And then my role was to be 16 involved and make sure there was 17 communication about what that looked like 18 and how we wanted to approach the market, 19 and then also to ensure that we were 20 successfully prepared for launch. 21 Q. Did you have final approval 22 over any of the marketing messaging for 23 the branded products? 24 A. The way the approval process</p>	<p style="text-align: right;">Page 36</p> <p>1 litigation that's ongoing? 2 MR. O'CONNOR: Objection. 3 THE WITNESS: No. 4 BY MR. CHALOS: 5 Q. Are you aware of any 6 litigation that was filed during the time 7 that you were the president of the 8 specialty pharmaceuticals group? 9 A. I don't -- I am not, not 10 aware, no. 11 Q. What do you call it, do you 12 call it a group or business or division? 13 A. Subsidiary of the broader 14 company. 15 Q. What was -- what were the 16 reasons that you decided to stop 17 promoting Xartemis? 18 MR. O'CONNOR: Objection. 19 THE WITNESS: So the product 20 in development was focused on 21 potentially an abuse deterrence 22 formulation. And through the 23 clinical development of the 24 product, the goal was to</p>
<p style="text-align: right;">Page 35</p> <p>1 works for the branded business, is it 2 goes through what was referred to as 3 promotional review committee, which is 4 legal, compliance, regulatory, and 5 medical. And they approve all of the 6 PRC, all of the promotional materials. I 7 don't approve those materials. 8 Q. Did you have any role with 9 respect to approving the marketing 10 materials? 11 MR. O'CONNOR: Objection. 12 THE WITNESS: No. 13 BY MR. CHALOS: 14 Q. I'm sorry. Your answer was 15 no? 16 A. No. 17 Q. What role do you currently 18 play in the company with respect to the 19 opioids litigation? 20 A. I'm not sure I understand 21 the question, I'm sorry. 22 Q. Sure. 23 Do you have any role in the 24 company with respect to the opioids</p>	<p style="text-align: right;">Page 37</p> <p>1 eventually get an abuse deterrence 2 claim on the product to add into 3 the market as a potential part of 4 the solution to kind of address 5 the -- the appropriate use of the 6 product. 7 That did not happen, number 8 one. So we didn't end up -- we're 9 not getting an abuse deterrent 10 claim. The other issues were that 11 we did decide to launch because we 12 had an approval. And we tried to 13 make sure that it was positioned 14 appropriately as it relates to a 15 potential opportunity for patients 16 who had a hard time dealing with 17 other forms of the product. 18 And we stopped promoting it 19 because the product was not able 20 to penetrate the market and be 21 successful. 22 BY MR. CHALOS: 23 Q. How did you monitor the -- 24 as you call it, market penetration of</p>

<p style="text-align: right;">Page 38</p> <p>1 Xartemis?</p> <p>2 MR. O'CONNOR: Objection.</p> <p>3 THE WITNESS: So it was --</p> <p>4 we looked at performance metrics</p> <p>5 like you would normally. So</p> <p>6 things such as ideas of who the</p> <p>7 segmented physicians are that</p> <p>8 potentially were appropriate to</p> <p>9 write the product for patients who</p> <p>10 could benefit from it.</p> <p>11 We also looked at</p> <p>12 prescription uptake based on those</p> <p>13 appropriate patient populations.</p> <p>14 BY MR. CHALOS:</p> <p>15 Q. And where did you get that</p> <p>16 data from?</p> <p>17 A. Third-party sources. I</p> <p>18 can't remember if it was IMS or some</p> <p>19 others, but it was third-party sources.</p> <p>20 Q. So the data that you got</p> <p>21 regarding the Xartemis prescriptions was</p> <p>22 prescription-level data?</p> <p>23 MR. O'CONNOR: Objection.</p> <p>24 THE WITNESS: Normally, you</p>	<p style="text-align: right;">Page 40</p> <p>1 chemical, the -- the amount of the</p> <p>2 chemical that they are writing, so</p> <p>3 hydrocodone with acetaminophen or</p> <p>4 oxycodone or so forth. But we</p> <p>5 don't usually see the</p> <p>6 manufacturer, per se, unless it's</p> <p>7 another brand.</p> <p>8 BY MR. CHALOS:</p> <p>9 Q. Okay. So for the branded</p> <p>10 products, you would see for each</p> <p>11 prescription that was written for the</p> <p>12 specific product, right?</p> <p>13 A. For our -- for our data,</p> <p>14 yes.</p> <p>15 Q. Yes.</p> <p>16 A. You can see their overall</p> <p>17 prescribing activity. But usually we</p> <p>18 just looked at what our prescribing</p> <p>19 activity was.</p> <p>20 Q. Okay. And could you see, if</p> <p>21 somebody wrote a prescription for a</p> <p>22 generic, let's talk about -- let's talk</p> <p>23 about Xartemis in particular.</p> <p>24 So Xartemis was a</p>
<p style="text-align: right;">Page 39</p> <p>1 look at prescription level data,</p> <p>2 both new prescriptions as well as</p> <p>3 total prescriptions. And you look</p> <p>4 at those across segmented</p> <p>5 physicians that you believe are</p> <p>6 appropriate to write the product</p> <p>7 based on where the patients are</p> <p>8 actually treated.</p> <p>9 BY MR. CHALOS:</p> <p>10 Q. Okay. So you can determine</p> <p>11 from the data which doctors are writing</p> <p>12 prescriptions for Mallinckrodt products?</p> <p>13 MR. O'CONNOR: Objection.</p> <p>14 THE WITNESS: Yes, we can.</p> <p>15 BY MR. CHALOS:</p> <p>16 Q. And you can also determine</p> <p>17 which doctors are writing for products</p> <p>18 manufactured by other companies?</p> <p>19 MR. O'CONNOR: Objection.</p> <p>20 THE WITNESS: So the</p> <p>21 challenge with this market is,</p> <p>22 because it's so genericized, you</p> <p>23 don't really see who manufactures.</p> <p>24 It just usually you see the</p>	<p style="text-align: right;">Page 41</p> <p>1 combination drug?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So what was in that?</p> <p>4 A. It was a combination of</p> <p>5 oxycodone and acetaminophen.</p> <p>6 Q. Okay. So could you also see</p> <p>7 what physicians were writing</p> <p>8 prescriptions for generic oxycodone and</p> <p>9 acetaminophen combinations?</p> <p>10 A. We saw the -- we could see</p> <p>11 the full market potential, and we could</p> <p>12 see -- I can't -- I can't recall exactly,</p> <p>13 but the -- there was a history of what</p> <p>14 they wrote, but we couldn't see</p> <p>15 specifically how that breakout went. But</p> <p>16 we saw the history of how the physicians</p> <p>17 wrote, yes.</p> <p>18 Q. Okay. And you can see which</p> <p>19 prescriptions -- which -- excuse me. Let</p> <p>20 me start that again.</p> <p>21 A. Sure.</p> <p>22 Q. During the time that you</p> <p>23 were the president of the specialty</p> <p>24 pharmaceuticals group, you could see</p>

<p style="text-align: right;">Page 42</p> <p>1 which physicians were writing 2 prescriptions for Mallinckrodt's branded 3 product including Xartemis at that time? 4 A. Yes. 5 Q. Okay. Was Exalgo still on 6 the market at that time? 7 A. I don't recall the exact 8 timing. When I joined the company, 9 Exalgo was at the back end of its 10 lifecycle. It was going to go off 11 patent. One strength maintained 12 exclusivity post the other ones losing 13 patent protection. But we were 14 separating ourselves from promoting that 15 product, I want to say it was probably 16 like 2000 -- I can't remember the exact 17 date, but within the 2014 time frame. 18 Q. Okay. So when you first 19 joined Mallinckrodt, Mallinckrodt was 20 still promoting Exalgo? 21 A. Yes, that's correct. 22 Q. And was that under -- were 23 you in charge of that as well? 24 A. It was under the branded</p>	<p style="text-align: right;">Page 44</p> <p>1 came to you during the entire time that 2 you were the president of the specialty 3 pharmaceuticals business? 4 MR. O'CONNOR: Objection. 5 THE WITNESS: It came -- it 6 came to the operating committee. 7 It came to my -- myself included, 8 yes. 9 BY MR. CHALOS: 10 Q. Okay. You -- are you aware 11 that in 2017 Mallinckrodt entered into a 12 settlement agreement with the Drug 13 Enforcement Administration? 14 A. I'm aware of the settlement. 15 Not of the details, because I was not 16 running the business at the time. But I 17 was aware of the settlement, yes. 18 Q. Okay. Did you -- you may 19 have just answered my next question then. 20 What role, if any, did you 21 have in conjunction with the discussions 22 with the Drug Enforcement Administration 23 that ultimately led to that settlement 24 agreement?</p>
<p style="text-align: right;">Page 43</p> <p>1 business, yes. It would have been my 2 responsibility. 3 Q. Was it the 32-milligram dose 4 that they continued to promote for some 5 period of time? 6 A. I believe that's correct, 7 yes. 8 Q. Was the company at that time 9 monitoring the prescription level data 10 for Exalgo? 11 A. I'm sure we had prescription 12 level data of how the product was 13 actually being written by physicians. 14 That would be normal course of business. 15 Q. Okay. You also were at one 16 time receiving daily sales reports for 17 both the branded opioids and the generic 18 opioids; is that right? 19 MR. O'CONNOR: Objection. 20 THE WITNESS: That is 21 correct. We do say -- see daily 22 sales reports, yes. 23 BY MR. CHALOS: 24 Q. Is -- is that something that</p>	<p style="text-align: right;">Page 45</p> <p>1 A. None. 2 Q. Do you know who 3 Michael-Bryant Hicks is? 4 A. I do. 5 Q. Who is he? 6 A. He's our former general 7 counsel. 8 Q. So Mr. Casey's predecessor? 9 A. That is correct, yes. 10 Q. And he was the general 11 counsel for Mallinckrodt LLC, as well as 12 Mallinckrodt PLC? 13 A. I don't know. 14 MR. O'CONNOR: Objection, 15 objection. 16 THE WITNESS: I don't really 17 know. I mean I know he was the 18 general counsel for the company. 19 I don't know whether it was LLC, 20 PLC or how it was set up. 21 BY MR. CHALOS: 22 Q. Okay. What role, if any, 23 did Mark Trudeau have in formulating the 24 messaging for Mallinckrodt's branded</p>



<p style="text-align: right;">Page 46</p> <p>1 opioid Xartemis?</p> <p>2 MR. O'CONNOR: Objection.</p> <p>3 THE WITNESS: As I mentioned</p> <p>4 earlier, Mark -- Mark's role as</p> <p>5 chief executive officer was not</p> <p>6 involved in the daily operations.</p> <p>7 He was more setting the strategy</p> <p>8 direction of the company.</p> <p>9 Investor relations, board</p> <p>10 relations, those type of things.</p> <p>11 The operating committee</p> <p>12 which I chaired like I mentioned</p> <p>13 earlier really had responsibility</p> <p>14 for the management of the business</p> <p>15 on a daily basis.</p> <p>16 And the PRC, or the</p> <p>17 promotional review committee,</p> <p>18 approved the messaging for the</p> <p>19 products that were used in front</p> <p>20 of customers.</p> <p>21 BY MR. CHALOS:</p> <p>22 Q. Okay. Would you from time</p> <p>23 to time present to Mr. Trudeau proposed</p> <p>24 messaging for Xartemis?</p>	<p style="text-align: right;">Page 48</p> <p>1 We'll mark that, both of</p> <p>2 those as collective Exhibit Number 2.</p> <p>3 (Discussion off the record.)</p> <p>4 BY MR. CHALOS:</p> <p>5 Q. Okay. And you can take as</p> <p>6 much time as you need to review this,</p> <p>7 Mr. O'Neill. I'm going to ask you a few</p> <p>8 questions when you're ready.</p> <p>9 A. Okay.</p> <p>10 Q. So, Exhibit Number 2 is,</p> <p>11 first page, is an e-mail from you to Mark</p> <p>12 Trudeau dated December the 13th of 2013,</p> <p>13 7:52 p.m. The subject line is Xartemis</p> <p>14 messaging.</p> <p>15 And you said in that e-mail,</p> <p>16 "I've attached one slide that represents</p> <p>17 our messaging for Xartemis XR."</p> <p>18 And does this appear, the</p> <p>19 second page of Exhibit 2, to be that</p> <p>20 slide?</p> <p>21 A. I don't really recall the</p> <p>22 e-mail, but clearly I mean I'm looking at</p> <p>23 it, so it came from me.</p> <p>24 The message -- the -- the</p>
<p style="text-align: right;">Page 47</p> <p>1 MR. O'CONNOR: Objection.</p> <p>2 THE WITNESS: I don't recall</p> <p>3 whether we had conversations about</p> <p>4 it or not.</p> <p>5 BY MR. CHALOS:</p> <p>6 Q. Are you from New Jersey?</p> <p>7 A. I am. Is it that evident?</p> <p>8 Q. Well, I'm from New York</p> <p>9 originally, so yeah.</p> <p>10 A. Born in Brooklyn, but raised</p> <p>11 in Jersey.</p> <p>12 Q. Which part of Brooklyn?</p> <p>13 A. Flatbush.</p> <p>14 Q. I was born in Queens.</p> <p>15 (Document marked for</p> <p>16 identification as Exhibit</p> <p>17 Mallinckrodt-O'Neill-2.)</p> <p>18 BY MR. CHALOS:</p> <p>19 Q. I'm going to hand you what</p> <p>20 we'll mark as collective Exhibit</p> <p>21 Number 2. I believe it to be an e-mail</p> <p>22 and its attachment. The Bates numbers</p> <p>23 are MNK-T1_0000947867, and</p> <p>24 MNK-T1_0000947868.</p>	<p style="text-align: right;">Page 49</p> <p>1 outline of the slide certainly seems to</p> <p>2 fit the e-mail, yes.</p> <p>3 Q. Okay. You -- you said here,</p> <p>4 "For purposes of the next week, I would</p> <p>5 recommend that the focus be on the onset</p> <p>6 you expect, the duration they deserve."</p> <p>7 Do you see that?</p> <p>8 A. I do.</p> <p>9 Q. Okay. Do you have any idea</p> <p>10 what you were referring to there when you</p> <p>11 said "for the purposes of next week"?</p> <p>12 A. I don't recall.</p> <p>13 Q. If you go further down, you</p> <p>14 said, "As we spoke about at the EC, we</p> <p>15 will be testing this messaging with</p> <p>16 physicians and payors."</p> <p>17 Do you see that?</p> <p>18 A. I do.</p> <p>19 Q. Okay. What is the EC?</p> <p>20 A. It's the executive committee</p> <p>21 of the organization. It's Mark's direct</p> <p>22 reports.</p> <p>23 Q. Okay. So at the time in</p> <p>24 2013, who was on the executive committee?</p>



<p style="text-align: right;">Page 50</p> <p>1 A. It would be better off  2 probably going by roles. But Mark --  3 Mark obviously was on it, the CFO, the  4 general counsel, myself as the head of  5 the branded business, the generic  6 business. I'm sure Dr. Scholz who was  7 the head of manufacturing, as well as  8 head of science and technology. I  9 probably missed a couple people, but  10 those were the major pieces.</p> <p>11 Q. And during this time period,  12 the time period where you were the  13 president of specialty pharmaceuticals,  14 how often did the executive committee  15 meet?</p> <p>16 A. I don't recall the exact  17 timing. But probably once a month at  18 least. There were different topics on  19 the agenda.</p> <p>20 Q. During the time when you  21 were president of the specialty  22 pharmaceuticals business, did you attend  23 board of directors meetings?</p> <p>24 A. I'd be in certain sections</p>	<p style="text-align: right;">Page 52</p> <p>1 A. I have. Not all of them,  2 but, you know, like I said, when I'm --  3 when it's relevant for me to be there.</p> <p>4 Q. Okay. Have they always  5 taken place in Dublin, since you've been  6 involved?</p> <p>7 A. Initially Dublin. Now they  8 take place in London.</p> <p>9 Q. Does the entire executive  10 committee attend the board meetings?</p> <p>11 A. Now, yes. We are -- we are  12 always there, because there's usually a  13 chance to interact with the board, answer  14 specific questions, but, yes, most of the  15 EC is there.</p> <p>16 Q. Was there a time where that  17 wasn't true?</p> <p>18 A. In the beginning, we would  19 go based on whether the topic required us  20 to be there. Now we tend to go to every  21 one. It doesn't mean that we're in the  22 meeting the whole time, but we were  23 there.</p> <p>24 Q. When did that change?</p>
<p style="text-align: right;">Page 51</p> <p>1 of those board of directors meetings. I  2 wasn't in there the whole time. It was  3 usually those things that were relevant  4 to my presence.</p> <p>5 Q. Would you attend every board  6 of director meeting?</p> <p>7 A. I don't recall if I attended  8 every one. But if I was on the agenda,  9 I'd be there.</p> <p>10 Q. Where did those occur?</p> <p>11 A. At this time I believe they  12 were occurring in Dublin.</p> <p>13 Q. How often did those occur?</p> <p>14 MR. O'CONNOR: Objection.</p> <p>15 THE WITNESS: I don't recall  16 the exact timing. Probably once a  17 quarter, four times a year maybe.</p> <p>18 BY MR. CHALOS:</p> <p>19 Q. Do you still attend those  20 board of directors meetings?</p> <p>21 A. I do.</p> <p>22 Q. Have you attended those  23 meetings during the entire time that  24 you've worked at Mallinckrodt?</p>	<p style="text-align: right;">Page 53</p> <p>1 A. I don't recall the exact  2 timing.</p> <p>3 Q. Was it recent?</p> <p>4 A. I'd have to speculate. I  5 don't -- it wasn't that long ago.</p> <p>6 Q. Okay. So let's go back to  7 Exhibit Number 2. This phrase or  8 phrases, "The onset you expect, the  9 duration they deserve."</p> <p>10 Did you come up with that?</p> <p>11 A. No. My expectation would --  12 that would have come from my marketing  13 team.</p> <p>14 Q. Do you have a marketing  15 background?</p> <p>16 A. I do.</p> <p>17 Q. What was your undergraduate  18 degree in?</p> <p>19 A. Finance.</p> <p>20 Q. And did you get a graduate  21 degree?</p> <p>22 A. I did.</p> <p>23 Q. From Seton Hall as well?</p> <p>24 A. I did.</p>

<p style="text-align: right;">Page 54</p> <p>1 Q. What was -- what was your 2 graduate degree in? 3 A. Marketing. 4 Q. When was that? 5 A. My graduate degree was in 6 '97, I believe. 7 Q. And how about your 8 undergrad? 9 A. '92. 10 Q. That's PJ days? 11 A. Yeah, yeah. I got -- my 12 undergrad was from Montclair State. And 13 graduate was from Seton Hall. 14 Q. Got it. Those were heavy 15 times for their basketball program. 16 A. It was. 17 Q. Was this slide that's 18 attached to Exhibit Number 2, was that 19 something that the marketing department 20 prepared, do you think? 21 A. I can't remember who 22 prepared it. But it would have 23 definitely come from the brand team, yes. 24 Q. From the brand team?</p>	<p style="text-align: right;">Page 56</p> <p>1 brand team came up with? 2 A. They would have tested that. 3 They would have developed it, and it 4 would have had to have been cleared by 5 the promotional review committee that I 6 spoke of earlier, which included medical, 7 regulatory, and legal. 8 Q. Got it. 9 Do you know why you were 10 sending this information to Mark Trudeau 11 in December of 2013? 12 A. I don't recall exactly why, 13 but you could go back to where the 14 company was. We had just spun. We had 15 just become public from our spin-out from 16 Covidien. And this was our first -- 17 could be our first launch. And so there 18 was a lot of interest in where we were 19 going. It was more informational than 20 anything else. 21 Q. What was your role with 22 respect to the spin from Covidien? 23 A. I joined after that was 24 completed. That was completed in July of</p>
<p style="text-align: right;">Page 55</p> <p>1 A. Yeah, from the marketing 2 group, yeah. 3 Q. What was the brand team? 4 A. So every -- the way we 5 manage our products, is there is usually 6 a team of individuals that require -- 7 that manage the business. And those that 8 we refer to as brand teams, they usually 9 have people from marketing, people from 10 finance, from medical, other people that 11 help drive the strategy for the business 12 at a brand level. 13 Q. Do you have any medical 14 training? 15 A. I do not. 16 Q. This -- on Exhibit 2, the 17 messaging recap is, "Xartemis XR is the 18 first and only oxycodone HCl/APAP 19 combination for acute pain with immediate 20 and extended-release analgesia, providing 21 fast-acting and long-lasting continuous 22 pain relief with the benefit of 12-hour 23 dosing for patients." 24 Is that something that the</p>	<p style="text-align: right;">Page 57</p> <p>1 '13. I joined in September. 2 Q. Do you have any legal 3 training? 4 A. I do not. 5 Q. What role with respect to -- 6 talking about Xartemis here. What role 7 with respect to the discussions with FDA 8 over labeling did you play? 9 A. I was not involved in the 10 active discussions with the FDA. That 11 would have been our regulatory team. I 12 was aware of the discussions and the 13 dialogue, but I was not actively 14 involved. 15 Q. Was there a point person for 16 the company to deal with the FDA on that 17 issue? 18 A. It would have been our head 19 of regulatory at the time, which I 20 believe was Mark Mannebach. I think his 21 last name was. I can't remember. He's 22 not with the company anymore. 23 Q. Since you've been with the 24 company, has Mallinckrodt promoted</p>

<p style="text-align: right;">Page 58</p> <p>1 Roxicodone?</p> <p>2 A. Not that I'm aware, no. I</p> <p>3 don't know. But I don't think so.</p> <p>4 Q. Have you heard of</p> <p>5 Roxicodone?</p> <p>6 A. I have, yes.</p> <p>7 Q. Is that a product that the</p> <p>8 company still sells?</p> <p>9 A. I believe it's part of the</p> <p>10 generic business. I'm not aware of how</p> <p>11 it's handled. It's not part of my</p> <p>12 responsibility.</p> <p>13 Q. Was that part of your</p> <p>14 responsibility when you were president of</p> <p>15 the specialty pharmaceuticals business?</p> <p>16 A. I don't remember if it was</p> <p>17 in the portfolio at this point in time.</p> <p>18 It was a relatively small product. If it</p> <p>19 was, I don't really recall.</p> <p>20 (Document marked for</p> <p>21 identification as Exhibit</p> <p>22 Mallinckrodt-O'Neill-3.)</p> <p>23 BY MR. CHALOS:</p> <p>24 Q. We'll mark as Exhibit</p>	<p style="text-align: right;">Page 60</p> <p>1 A. At the time she was the head</p> <p>2 of the sales organization.</p> <p>3 Q. You -- you said in this</p> <p>4 e-mail, "I hope you guys had a good</p> <p>5 weekend. As I've had the chance to think</p> <p>6 through the various topics from the last</p> <p>7 cabinet meeting," do you see that?</p> <p>8 A. I do.</p> <p>9 Q. What -- what was the</p> <p>10 cabinet?</p> <p>11 A. So the cabinet was myself,</p> <p>12 members of my direct reports, commercial</p> <p>13 leadership, as well as medical and some</p> <p>14 other people that were monitoring the</p> <p>15 launch of the product and determining how</p> <p>16 it was going and what, if anything, we</p> <p>17 should be thinking differently about.</p> <p>18 Q. Okay. And that was</p> <p>19 different from these other groups that</p> <p>20 we've talked about?</p> <p>21 A. Yeah. This was -- this was</p> <p>22 a very -- this was a group that was</p> <p>23 meeting more -- more frequently than the</p> <p>24 OC. The OC probably monthly. This was</p>
<p style="text-align: right;">Page 59</p> <p>1 3MNK-T1_0000953264.</p> <p>2 If you need a break at any</p> <p>3 time.</p> <p>4 A. No, that's okay. I just</p> <p>5 need a little water.</p> <p>6 Q. You can take as much time as</p> <p>7 you need to review that.</p> <p>8 A. Okay.</p> <p>9 Q. So let's talk about the</p> <p>10 e-mail on the bottom first. This is from</p> <p>11 you to someone named Todd Killian and</p> <p>12 Stacy Chick. Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. Okay. Who was Todd Killian?</p> <p>15 A. Todd Killian at the time was</p> <p>16 the head of my market access team.</p> <p>17 Q. What was the function of the</p> <p>18 market access team?</p> <p>19 A. So their primary</p> <p>20 responsibility was interacting directly</p> <p>21 with payors, both private and public</p> <p>22 payors.</p> <p>23 Q. Okay. And Stacy Chick. Who</p> <p>24 is she?</p>	<p style="text-align: right;">Page 61</p> <p>1 probably weekly.</p> <p>2 Q. During the time period that</p> <p>3 you were president of the specialty</p> <p>4 pharmaceuticals group, was the company</p> <p>5 monitoring pharmacy level data as well on</p> <p>6 its products?</p> <p>7 A. I don't recall whether we</p> <p>8 were or not. I don't -- I don't</p> <p>9 remember.</p> <p>10 Q. Do you know what I mean when</p> <p>11 I say pharmacy level data?</p> <p>12 A. You're -- I'm assuming you</p> <p>13 mean dispense data at the pharmacy.</p> <p>14 Q. Yes, I am.</p> <p>15 A. No, I don't remember if we</p> <p>16 did or not.</p> <p>17 Q. Is that something the</p> <p>18 company does today?</p> <p>19 A. It's different today. So</p> <p>20 the business that we have now is a</p> <p>21 specialty pharmaceutical business. And</p> <p>22 it's handled through SPs, specialty</p> <p>23 pharmacies, not retail pharmacies. And</p> <p>24 we get to see that data as part of our</p>

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1 network. But, yes, we do see it. But I  
2 don't know if we were monitoring pharmacy  
3 data here or not.

4 Q. Did you have access -- did  
5 the company have access to pharmacy level  
6 data back when you were the president of  
7 the specialty pharmaceuticals group?

8 A. There were third-party  
9 providers that had that. IMS was one. I  
10 can't remember who the other one was.  
11 But, yes, there were third-party data  
12 providers. And I'm sure like anything  
13 else, it was probably there, but I don't  
14 remember.

15 Q. Okay. Going back to Exhibit  
16 Number 3. The first bullet point there,  
17 you said, "Our overall approach to the  
18 VA/DOD."

19 That's Veterans  
20 Administration, Department of Defense?

21 A. That's correct.

22 Q. "This is a market that would  
23 seem to be in need of a solution like  
24 Xartemis XR. The policy team under

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1 leadership of Derek Naten is currently  
2 digging into the messaging for policy  
3 makers in DC."

4 Do you see that?

5 A. I do.

6 Q. Okay. What were you talking  
7 about there?

8 A. So when you think about vets  
9 and you think about some of the  
10 challenges that they have with pain  
11 management, both -- both active as well  
12 as nonactive, there was a real  
13 opportunity, potentially, to place the  
14 product in that provided more sustainable  
15 pain relief, without changing the dosing.  
16 And it was more aligned with potentially  
17 helping these patients reach a better  
18 outcome.

19 Q. Okay. What was the policy  
20 team?

21 A. So at the time we have a --  
22 we had a, and we still do have a team  
23 down in Washington DC that works on  
24 public policy, as well as government

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1 affairs. And Derek is a part of that  
2 team.

3 Q. Okay. And at some point you  
4 were in charge of the political action  
5 committee for Mallinckrodt; is that  
6 right?

7 A. The PAC, yes.

8 Q. Are you still in charge of  
9 that?

10 A. I chair the board for the  
11 PAC, yes, I do.

12 Q. Is there any connection  
13 between the PAC and the policy team?

14 A. No.

15 Q. Still under bullet point  
16 Number 1 of Exhibit 3, you said, "Todd,  
17 how do we handle the message into Hines  
18 or at the VISN level."

19 Do you see that?

20 A. Yeah.

21 Q. What does that mean?

22 A. So Hines is the center of  
23 the VA. It's where most clinical  
24 decisions are made. And these are people

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1 who usually drive formulary decisions.

2 The VISNs, or the V-I-Z --  
3 V-I-S-Ns, they are the regional structure  
4 underneath Hines that makes local  
5 decisions for the VAs.

6 Q. And why was it important to  
7 get a message to those groups?

8 A. Because they are ultimately  
9 going to make the decision of whether  
10 they make the product available to the  
11 patients that could potentially benefit  
12 from it. So you want to share with them  
13 the clinical messaging and the -- the  
14 opportunity and understanding of the  
15 product and potentially who -- who the  
16 appropriate patients are that could  
17 benefit from it.

18 Q. Okay. You went on to say in  
19 Exhibit 3, "We obviously will need to go  
20 out and recruit a topnotch AD to handle  
21 this segment."

22 What is an AD?

23 A. Account director.

24 Q. Oh, okay. Did that ever

<p style="text-align: right;">Page 66</p> <p>1 happen?</p> <p>2 A. I don't recall whether we</p> <p>3 hired somebody or not. That's a --</p> <p>4 that's a specific -- that's a specific</p> <p>5 skill set that you go out to try to find,</p> <p>6 but I don't know if we did or not. I'm</p> <p>7 assuming we did, but I don't remember.</p> <p>8 Q. Did the market access team</p> <p>9 report to you at this time?</p> <p>10 A. It did.</p> <p>11 Q. The next bullet point in</p> <p>12 Exhibit 3, "Differentiation in front of</p> <p>13 the prescriber."</p> <p>14 Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. Okay. What is</p> <p>17 differentiation in front of the</p> <p>18 prescriber?</p> <p>19 A. So one of the challenges</p> <p>20 in -- in the branded business is getting</p> <p>21 time in front of potential physicians,</p> <p>22 because they see patients. Their days</p> <p>23 are very busy. You want to make that as</p> <p>24 productive as possible. And they get a</p>	<p style="text-align: right;">Page 68</p> <p>1 if you remember, that was intended to</p> <p>2 differentiate Xartemis from either the</p> <p>3 generics or other branded products that</p> <p>4 are similar to it?</p> <p>5 A. I don't recall the exact</p> <p>6 messaging. But I think the -- what you</p> <p>7 shared with me earlier about the duration</p> <p>8 and the dose, dosing, was probably part</p> <p>9 of that.</p> <p>10 Q. That 12-hour dose that you</p> <p>11 talked about earlier?</p> <p>12 A. Mm-hmm. Yes.</p> <p>13 Q. Okay. What, if any, was the</p> <p>14 Mallinckrodt messaging about the risk of</p> <p>15 addiction with respect to Xartemis?</p> <p>16 MR. O'CONNOR: Objection.</p> <p>17 THE WITNESS: I don't recall</p> <p>18 the specific messaging as it</p> <p>19 relates to -- to -- to the</p> <p>20 addiction piece of the messaging.</p> <p>21 I don't recall what it was.</p> <p>22 BY MR. CHALOS:</p> <p>23 Q. Was there a discussion in</p> <p>24 the Xartemis messaging about the risk of</p>
<p style="text-align: right;">Page 67</p> <p>1 lot of people that are trying to get</p> <p>2 their time.</p> <p>3 So the question is how do</p> <p>4 you actually stand out from that and how</p> <p>5 do you potentially offer them a solution</p> <p>6 that they don't see. So it's really</p> <p>7 making yourself stand out versus your</p> <p>8 competition.</p> <p>9 Q. I see. So one of the</p> <p>10 challenges for a branded product like</p> <p>11 Xartemis XR would be to explain to</p> <p>12 prescribers why that product is new or</p> <p>13 different from existing products?</p> <p>14 A. That's correct, yes. But</p> <p>15 also getting the time in front of them,</p> <p>16 right.</p> <p>17 Q. With respect to a drug like</p> <p>18 Xartemis, it also had generic</p> <p>19 competition; is that right?</p> <p>20 A. Yeah, there were generic</p> <p>21 versions of the product. Not of</p> <p>22 specifically that formulation. But of</p> <p>23 oxycodone and acetaminophen, yes.</p> <p>24 Q. And what was the messaging,</p>	<p style="text-align: right;">Page 69</p> <p>1 addiction?</p> <p>2 MR. O'CONNOR: Objection.</p> <p>3 THE WITNESS: I'm sure as I</p> <p>4 mentioned earlier, through the --</p> <p>5 through the -- through the PRC or</p> <p>6 promotional review committee, that</p> <p>7 it had to be a balanced message</p> <p>8 based on the data. We would not</p> <p>9 put something out that didn't have</p> <p>10 some sort of balance in it, I just</p> <p>11 don't recall what the specifics</p> <p>12 were.</p> <p>13 BY MR. CHALOS:</p> <p>14 Q. Okay. What is your</p> <p>15 understanding today about the risk of</p> <p>16 addiction with prescription opioids?</p> <p>17 MR. O'CONNOR: Objection.</p> <p>18 THE WITNESS: So, based on</p> <p>19 what I know, there is clearly an</p> <p>20 opioid crisis in place. And the</p> <p>21 opportunity for appropriate</p> <p>22 utilization of this product is</p> <p>23 really the most important piece.</p> <p>24 There are patients that live with</p>



<p style="text-align: right;">Page 70</p> <p>1 pain, and opioids represent a 2 significant opportunity for them 3 to manage their pain. But like 4 anything else, it has to be used 5 appropriately with the right 6 patient. 7 BY MR. CHALOS: 8 Q. Is there a risk of addiction 9 for patients taking prescription opioids? 10 MR. O'CONNOR: Objection. 11 THE WITNESS: I am not a 12 scientist. It's hard for me to 13 say. I know that there's an 14 opioid issue. 15 BY MR. CHALOS: 16 Q. Have you ever heard that 17 there's a risk of addiction with 18 prescription opioids? 19 A. Like I said, I know there's 20 an opioid crisis as specifically in the 21 inappropriate use of the product, yes. 22 Q. Have you ever read the 23 labels for any of the Mallinckrodt opioid 24 products?</p>	<p style="text-align: right;">Page 72</p> <p>1 BY MR. CHALOS: 2 Q. Is there any risk of 3 addiction with prescription opioids even 4 when they are used appropriately? 5 MR. O'CONNOR: Objection. 6 THE WITNESS: Again, it's 7 hard for me to speculate on that. 8 I don't know that answer. 9 BY MR. CHALOS: 10 Q. Have you ever known anyone 11 addicted to opioids? 12 A. I have not. 13 Q. Have you ever met anyone 14 addicted to opioids? 15 A. I have not. 16 Q. Let's mark as Exhibit Number 17 4. 18 (Document marked for 19 identification as Exhibit 20 Mallinckrodt-O'Neill-4.) 21 MR. CHALOS: 22 MNK-T1_0000944036. 23 THE WITNESS: Okay. 24 BY MR. CHALOS:</p>
<p style="text-align: right;">Page 71</p> <p>1 A. Not since I've been in the 2 business, which was five years ago, four 3 years ago. 4 Q. Back when you were the 5 president of the specialty 6 pharmaceuticals business, did you read 7 product labels for the opioid products? 8 A. I'm sure I did. 9 Q. Do you recall anything about 10 the risk of addiction in there? 11 A. I'm sure there was risk 12 associated in the label. I don't 13 remember the exact language. 14 Q. What do you know about the 15 opioid crisis? 16 MR. O'CONNOR: Objection. 17 BY MR. CHALOS: 18 Q. You mentioned you know 19 there's a crisis. 20 MR. O'CONNOR: Objection. 21 THE WITNESS: I know that 22 there is a significant concern 23 related to the inappropriate use 24 of the products.</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. Okay. So this is -- Exhibit 2 Number 4 is an e-mail from you to a group 3 of people dated November 5th of 2013. 4 It's to somebody named Sanjeev Luther. 5 Do you see that? 6 A. I do. 7 Q. Who is Mr. Luther? 8 A. So at the time, Sanjeev was 9 the head of business analytics, 10 forecasting and such. 11 Q. Okay. And what is that? 12 A. He has responsibility for 13 the team that does all the business 14 analytics, on the KPIs, forecasting, all 15 those issues. 16 Q. What's KPI? 17 A. I'm sorry. Key performance 18 indicators. Score cards, those types of 19 things. 20 Q. So would Mr. Luther be 21 reviewing information such as 22 prescription-level data? 23 A. In his role, he would 24 understand it, yes. And he would</p>



<p style="text-align: right;">Page 74</p> <p>1 probably see it.</p> <p>2 Q. Okay. Is he still with the</p> <p>3 company?</p> <p>4 A. He is not.</p> <p>5 Q. Do you know where he is now?</p> <p>6 A. I do not.</p> <p>7 Q. Okay. This is also sent to</p> <p>8 someone named Joe Duarte.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Who was he?</p> <p>12 A. At the time, Joe was the</p> <p>13 head of market access prior to Todd.</p> <p>14 Q. Okay. And Melissa Falcone?</p> <p>15 A. I do see that, yes. Melissa</p> <p>16 at the time was the brand director.</p> <p>17 Q. She's a marketing person</p> <p>18 then?</p> <p>19 A. She is.</p> <p>20 Q. Is she still with the</p> <p>21 company?</p> <p>22 A. She is.</p> <p>23 Q. Does she still -- does she</p> <p>24 still report to you?</p>	<p style="text-align: right;">Page 76</p> <p>1 with the FDA. One of the scenarios is</p> <p>2 that we do not receive any mention of ADT</p> <p>3 within the label."</p> <p>4 Do you see that?</p> <p>5 A. I do.</p> <p>6 Q. What is ADT?</p> <p>7 A. Abuse deterrence. Abuse</p> <p>8 deterrence technology. ADT is abuse</p> <p>9 deterrence technology.</p> <p>10 Q. Okay. And you were being</p> <p>11 kept apprised at this time of the</p> <p>12 negotiations with FDA?</p> <p>13 A. Progress in our discussions</p> <p>14 with the FDA regarding that, yes.</p> <p>15 Q. Okay. But you weren't</p> <p>16 involved?</p> <p>17 A. No, I was not actively</p> <p>18 involved in the negotiations.</p> <p>19 Q. Okay. A couple sentences</p> <p>20 down, you said, "I believe the major</p> <p>21 point of differentiation will be our</p> <p>22 ability to gain access in a</p> <p>23 non-prior-authorized third-tier</p> <p>24 position."</p>
<p style="text-align: right;">Page 75</p> <p>1 A. No. And she is in a</p> <p>2 different role now. She reports to the</p> <p>3 current head of market access for the</p> <p>4 organization.</p> <p>5 Q. Who is that?</p> <p>6 A. Sandy Loreaux.</p> <p>7 Q. Is that a man or a woman?</p> <p>8 A. Woman.</p> <p>9 Q. Okay. So the subject line</p> <p>10 here is "Xartemis XR ADT impact."</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. Okay. And this is sent --</p> <p>14 you sent it with high importance, company</p> <p>15 confidential. Why was that?</p> <p>16 A. Because it referenced</p> <p>17 specifically issues relating to our</p> <p>18 ongoing negotiations with the FDA. And</p> <p>19 that was a confidential negotiations that</p> <p>20 potentially could lead to a different</p> <p>21 thinking about the product.</p> <p>22 Q. Okay. You said here, "We</p> <p>23 are looking at various scenarios</p> <p>24 concerning the ongoing label negotiations</p>	<p style="text-align: right;">Page 77</p> <p>1 Do you see that?</p> <p>2 A. I do.</p> <p>3 Q. Okay. What did you mean by</p> <p>4 that?</p> <p>5 A. So it's a formulary position</p> <p>6 with the payors. So if you -- if you</p> <p>7 think about, at this time -- it's changed</p> <p>8 a little bit. At this time, copays, or</p> <p>9 what the patient pays, is more defined by</p> <p>10 tiers. So tier 1 was generic. Tier 2</p> <p>11 usually was preferred brand. Tier 3 was</p> <p>12 a nonpreferred brand.</p> <p>13 And prior authorization was</p> <p>14 the amount of management that the payor</p> <p>15 would place on top of a specific</p> <p>16 utilization of a brand. And what we</p> <p>17 were -- what we were communicating based</p> <p>18 on the language here -- and I can only</p> <p>19 speculate, because I don't really</p> <p>20 remember this, just based on what I'm</p> <p>21 reading, is that it was important for the</p> <p>22 product not to have prior authorization</p> <p>23 on it. And allow it to sit in a</p> <p>24 third-tier position, which would have</p>

<p style="text-align: right;">Page 78</p> <p>1 been a little more expensive to the 2 patient but not prior authorized. 3 Q. Okay. Why was it being 4 prior authorized an issue? 5 A. Because if you think about 6 the way payors manage formularies, they 7 step at it or they force patients to fail 8 on other products. And more than 9 likely -- again, this is speculation 10 based on what I'm reading, is that the 11 challenge would be that if the product 12 was prior authorized, the patient would 13 have to fail on multiple other forms of 14 the generic before they get access to the 15 product. 16 Q. Okay. And if a product 17 required prior authorization, that would 18 mean that a physician would have to call 19 to the payor and say, "I need 20 authorization to make this prescription 21 for this patient"? 22 A. That's one way. Or 23 documentation, or call, yeah. Some sort 24 of documentation.</p>	<p style="text-align: right;">Page 80</p> <p>1 6635. 2 (Document marked for 3 identification as Exhibit 4 Mallinckrodt-O'Neill-5.) 5 MR. CHALOS: I'm told lunch 6 is here. So after we finish 7 talking about this document, we 8 can take a break and eat. 9 THE WITNESS: Okay. 10 BY MR. CHALOS: 11 Q. Okay. The top e-mail here 12 is from you to Stacy Chick with a copy to 13 someone named Mike Paterson. Do you see 14 that? 15 A. I do. 16 Q. Who was Mr. Patterson? 17 A. At the time Mike Paterson 18 was my -- my chief of staff. 19 Q. What is that role? 20 A. Responsibility for 21 execution, project management, making 22 sure things were moving the way they need 23 to move. 24 Q. Is he still with the</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. And that would likely have 2 the effect of reducing the number of 3 prescriptions? 4 MR. O'CONNOR: Objection. 5 THE WITNESS: Again, it 6 would -- it would potentially 7 impact how many patients get 8 access to the product because they 9 may not actually get -- ever get 10 access to it, because the 11 physician may not be willing to 12 write it. 13 BY MR. CHALOS: 14 Q. Prior authorization is 15 something that the physician's office 16 would have to get; is that right? 17 A. Yes. 18 MR. CHALOS: All right. 19 Let's mark as the next numbered 20 exhibit MNK-T1_0002806634. 21 Be exhibit Number 5. It's 22 actually a two-page exhibit. Let 23 me review that. So Exhibit 24 Number 5 is MNK-T1_0002806634 and</p>	<p style="text-align: right;">Page 81</p> <p>1 company? 2 A. He is not. 3 Q. Where is he now? 4 A. I do not know. 5 Q. When did he leave the 6 company? 7 A. Couple years ago. 8 Q. Do you know if he's still in 9 the pharmaceutical business? 10 A. I do not know. 11 Q. Okay. Dated -- this e-mail 12 is dated April 11th of 2014. And your 13 e-mail here on the top is to Stacy. 14 It says, "Stacy, thanks. I 15 would ask you to follow up with Todd on 16 this issue. There is no reason to have 17 our demand generation minimized by 18 dropping the ball at the retailer level." 19 Do you see that? 20 A. I do. 21 Q. Okay. What does -- what did 22 you mean by that? 23 A. So if you think about how 24 many retail pharmacies there are in the</p>

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1 country, getting a new product stocked at  
2 the retailer, when it's launched, is very  
3 difficult, because they have limited  
4 shelf space. They're -- they're only  
5 willing to take certain things.

6 And what the concern was, if  
7 we were able to generate interest in the  
8 product, that when the prescription was  
9 filled, the pharmacy wouldn't have the  
10 product to fill the prescription. That  
11 was the concern.

12 Q. Okay. And what did you mean  
13 when you used the term "demand  
14 generation"?

15 A. Again, going specifically to  
16 the physicians with the right messaging,  
17 to identify the appropriate patient and  
18 generating prescriptions activity.

19 Q. Okay. And that was one of  
20 the goals of the sales staff?

21 A. Sure, yes.

22 Q. Okay. Was this issue ever  
23 rectified?

24 A. I don't recall whether it

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1 was or not, but clearly there was effort  
2 to make sure the product was available,  
3 based -- just based on the language in  
4 the e-mail.

5 Q. Okay. And at some point,  
6 and we'll -- we'll look at this e-mail  
7 later. But at some point you were  
8 suggesting that Mallinckrodt should  
9 guarantee sales to the pharmacies. So in  
10 other words, if they stocked the Xartemis  
11 and it didn't sell, then they wouldn't be  
12 charged for it; is that right?

13 A. I don't recall the detail on  
14 that.

15 Q. Okay. All right. We'll  
16 look at some e-mails later on that.

17 MR. CHALOS: Okay. Well,  
18 let's put this aside and eat  
19 lunch, and we'll come back and  
20 talk some more.

21 THE VIDEOGRAPHER: Remove  
22 your microphones, please. The  
23 time is 12:00 p.m. Off the  
24 record.

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1 - - -

2 (Lunch break.)

3 - - -

4 THE VIDEOGRAPHER: We are  
5 back on the record. The time is  
6 12:46 p.m.

7 BY MR. CHALOS:

8 Q. Mr. O'Neill, when you were  
9 in charge of the specialty pharmaceutical  
10 business, were you responsible for  
11 generic opioids as well?

12 A. I was.

13 Q. Okay. Were you aware of a  
14 suspicious order monitoring program in  
15 place at the time?

16 A. I was.

17 Q. Okay. And what was your  
18 role with respect to that?

19 A. So as the head of the  
20 business, I have responsibility for  
21 managing the team that had responsible --  
22 had -- ran the business on a daily basis.  
23 So the order monitoring actually was  
24 handled by a separate group that worked

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1 closely with the commercial team. I was  
2 not actively involved in the order  
3 monitoring, but I knew it existed.

4 Q. Okay. Did they report to  
5 you?

6 A. No.

7 Q. Who did they report to?

8 A. I don't know where they  
9 reported, but they were not part of the  
10 commercial organization.

11 Q. Okay. Did you have any  
12 responsibility ultimately for suspicious  
13 order monitoring in your role with the  
14 specialty pharmaceuticals business?

15 A. I did not.

16 Q. Do you know a person named  
17 Victor Borelli?

18 A. I do not recall the name,  
19 no.

20 Q. What did you do to prepare  
21 for your deposition today?

22 A. I met with my attorneys.

23 Q. Who is that?

24 A. The gentlemen to my right.

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1 Q. Mr. O'Connor?  
 2 A. Yes.  
 3 Q. Okay. Anyone else?  
 4 A. His team right here.  
 5 Q. Okay. Mr. Davison as well?  
 6 A. Mm-hmm.  
 7 Q. And anybody else?  
 8 A. That's it.  
 9 Q. When did you do that?  
 10 A. First was a couple weeks  
 11 ago, and then I think we had a touch-base  
 12 recently in the last couple of days.  
 13 Q. Did you meet in person with  
 14 them?  
 15 A. First time, yes.  
 16 Q. Where was that?  
 17 A. In Bedminster. At our  
 18 offices in Bedminster.  
 19 Q. Mallinckrodt has offices in  
 20 Bedminster?  
 21 A. Yes, we do.  
 22 Q. Who was in -- who was  
 23 present for that first meeting?  
 24 A. Mr. Davison, Mr. O'Connor,

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1 and myself.  
 2 Q. Anybody else?  
 3 A. I don't think so. I think  
 4 that was it.  
 5 Q. Okay. How long did that  
 6 meeting last?  
 7 A. A few hours.  
 8 Q. And then you had a -- you  
 9 said I think a touch-base discussion more  
 10 recently?  
 11 A. I think within the next --  
 12 last 24, 48 hours, yes. It was a phone  
 13 call.  
 14 Q. That's what I was going to  
 15 ask you. On the phone?  
 16 A. Mm-hmm.  
 17 Q. Same group of people?  
 18 A. Yes.  
 19 Q. How long did that last?  
 20 A. Not very. I can't remember  
 21 exactly, but it wasn't very long.  
 22 Q. Did you do anything else to  
 23 prepare for your deposition today?  
 24 A. I did not.

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1 Q. Have you talked with anybody  
 2 other than the two lawyers you mentioned?  
 3 A. I have not.  
 4 Q. Have you talked with the  
 5 general counsel for Mallinckrodt in  
 6 preparation for your deposition today?  
 7 A. I have.  
 8 Q. About the deposition today,  
 9 I mean.  
 10 I'm sorry, in preparation  
 11 for the deposition today?  
 12 A. In preparation, no. But  
 13 about the awareness of the deposition,  
 14 yes. But not in preparation.  
 15 Q. Okay. Did you look at any  
 16 documents to prepare for today?  
 17 A. I did see documents, yes.  
 18 Q. When was that?  
 19 A. During the initial meeting.  
 20 Q. Since that meeting have you  
 21 looked at any documents to prepare for  
 22 the deposition today?  
 23 A. I have not.  
 24 Q. Have you talked with anyone

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1 else who has had their deposition taken  
 2 in this litigation about your deposition?  
 3 A. I have not.  
 4 Q. Have you talked with anyone  
 5 who has had their deposition taken in  
 6 this litigation about their deposition?  
 7 A. I have not.  
 8 (Document marked for  
 9 identification as Exhibit  
 10 Mallinckrodt-O'Neill-6.)  
 11 BY MR. CHALOS:  
 12 Q. We've marked as Exhibit  
 13 Number 6 to your deposition a series of  
 14 e-mails. MNK-T1\_000223534 through 5397.  
 15 Exhibit 6.  
 16 MR. CHALOS: I could have  
 17 handed those to both of you at the  
 18 same time.  
 19 MR. O'CONNOR: That's all  
 20 right.  
 21 BY MR. CHALOS:  
 22 Q. Let me know when you've had  
 23 a chance to review those.  
 24 A. Okay.

<p style="text-align: right;">Page 90</p> <p>1 Q. You've had a chance to 2 review Exhibit Number 6?</p> <p>3 A. I have, yes.</p> <p>4 Q. I want to focus you on the 5 e-mail Monday, May 19th, 2004 -- I'm 6 sorry, 2014, at 8:52 p.m. from you to 7 Stacy Chick, Ellen McCune and Todd 8 Killian.</p> <p>9 Do you see that e-mail?</p> <p>10 A. I do.</p> <p>11 Q. Who is Ellen McCune?</p> <p>12 A. She was my head of 13 commercial operations at that point.</p> <p>14 Q. Okay. And Todd Killian who 15 was he, again?</p> <p>16 A. He was head of market access 17 at that point.</p> <p>18 Q. Okay. Okay. So at this 19 point in May of 2014, you had not yet 20 decided to stop the promotion of 21 Xartemis; is that right?</p> <p>22 A. That is correct, yes.</p> <p>23 Q. And when did you decide to 24 stop promoting Xartemis?</p>	<p style="text-align: right;">Page 92</p> <p>1 committee, the OC, the operating 2 committee, that consisted of four people?</p> <p>3 A. I don't know the exact 4 numbers. But there were -- there were 5 myself, I think I said earlier Dr. Frank 6 Scholz, George -- I mean Matt Harbaugh, 7 and those were the primaries, yes. There 8 were others that came in and out. But 9 they were the primaries.</p> <p>10 Q. Okay. That is separate from 11 the executive committee, right?</p> <p>12 A. That is correct, yes.</p> <p>13 Q. And the executive committee, 14 I just want to make sure I have these 15 clear. The executive committee, that was 16 a committee with Mark Trudeau, right, the 17 CFO?</p> <p>18 A. Yeah. The executive 19 committee is the team of Mark's direct 20 reports, which include the CFO, myself at 21 that point in time, the head of HR, the 22 general counsel, head of communications, 23 head of production or manufacturing, and 24 the chief science officer. I may have</p>
<p style="text-align: right;">Page 91</p> <p>1 A. I don't recall the exact 2 date, but it was later in 2014.</p> <p>3 Q. Who decided to terminate a 4 significant number of sales 5 representatives that had previously 6 promoted Xartemis?</p> <p>7 MR. O'CONNOR: Object.</p> <p>8 BY MR. CHALOS:</p> <p>9 Q. Was that your decision?</p> <p>10 MR. O'CONNOR: Objection.</p> <p>11 THE WITNESS: That was a 12 decision that was taken at the 13 operating committee, based on 14 the -- based on the launch curve 15 and the lack of productivity.</p> <p>16 BY MR. CHALOS:</p> <p>17 Q. Was that ultimately your 18 decision to approve or was that something 19 that the committee itself could decide 20 with -- regardless of your position?</p> <p>21 A. It was my recommendation, 22 and then ultimately the OC would make the 23 final approval on it.</p> <p>24 Q. Okay. The operating</p>	<p style="text-align: right;">Page 93</p> <p>1 missed somebody. But that was the main 2 core.</p> <p>3 Q. Are all of those people on 4 the executive committee based in the 5 United States?</p> <p>6 MR. O'CONNOR: Objection.</p> <p>7 THE WITNESS: There was also 8 the chief strategy officer, who 9 was based in London at the time. 10 And I think everybody else was 11 United States-based, if I'm not 12 mistaken.</p> <p>13 BY MR. CHALOS:</p> <p>14 Q. Who was the chief strategy 15 officer?</p> <p>16 A. Gary Phillips. Dr. Gary 17 Phillips.</p> <p>18 Q. Okay. And then the 19 operations committee was all people based 20 in the U.S.?</p> <p>21 A. Yes.</p> <p>22 Q. All righty. Did you decide 23 to terminate Stacy Chick?</p> <p>24 A. Stacy left the organization.</p>



<p style="text-align: right;">Page 94</p> <p>1 I believe we moved on from it. I don't  2 remember exactly the details of it. But  3 yeah, she did leave the organization.  4 Q. Was that -- did you have any  5 role in the decision that led to her  6 leaving the organization?  7 MR. O'CONNOR: Objection.  8 THE WITNESS: I don't  9 remember the exact -- since she  10 worked for me, I'm sure I had  11 input on what the ultimate  12 decision was.  13 BY MR. CHALOS:  14 Q. Okay. So going back to  15 Exhibit Number 6. The e-mail  16 specifically from you dated 8:52 p.m. to  17 Ms. Chick, Ms. McCune, and Mr. Killian,  18 your subject line was "Critical.  19 Immediate attention required."  20 Do you see that?  21 A. I do.  22 Q. Fair to say that -- is it  23 fair to say that were you frustrated at  24 this point?</p>	<p style="text-align: right;">Page 96</p> <p>1 e-mail, I would say yes.  2 Q. You go on to say,  3 "Therefore, I'm requesting immediate  4 focus and plan of action that is shared  5 with the entire commercial leadership."  6 And there's a series of it looks like  7 initials; is that right?  8 A. That is correct.  9 Q. Who are those people listed  10 there?  11 A. SC would be Stacy Chick. MF  12 would be Melissa Falcone. TK would be  13 Todd Killian. EM would be Ellen McCune.  14 GK would be George Kegler. And HO is  15 myself.  16 Q. Okay. This POA, is that a  17 plan of action?  18 A. It is.  19 Q. Okay. "This POA includes a  20 back to basics approach to generate Rx's  21 immediately."  22 What are Rx's?  23 A. Prescriptions.  24 Q. "This means increasing our</p>
<p style="text-align: right;">Page 95</p> <p>1 A. Concerned. I think  2 concerned is a better -- better  3 description.  4 Q. Okay. I'm looking now at  5 the second paragraph, the one that starts  6 with, "After writing these down."  7 Do you see that?  8 A. I do.  9 Q. It says, "After writing  10 these down, I find it hard to believe  11 that we are at this point. Our job as  12 leaders is not to see the world the way  13 we want to see it, but see it for what it  14 is. At this point we have no choice but  15 to see the XXR" -- that's Xartemis XR?  16 A. Correct.  17 Q. -- "the XXR launch for what  18 it is, a failure," underlined and bolded,  19 right?  20 Do you see that?  21 A. I do.  22 Q. Did you believe that XXR  23 launch to be a failure at that point?  24 A. At this point, based on the</p>	<p style="text-align: right;">Page 97</p> <p>1 reach to the 20K-plus targets that we  2 have not seen with a simple and powerful  3 concept. XXR is the right choice for  4 their acute pain patients (efficacy, PK  5 profile, dosing, et cetera) and that  6 specific patient profiles currently  7 utilizing older opioid-based pain  8 products would benefit from utilizing XXR  9 with little or no out-of-pocket cost."  10 Do you see that?  11 A. I do.  12 Q. Okay. In that sentence you  13 mentioned something, PK profile.  14 Do you see that?  15 A. I do.  16 Q. What is that?  17 A. Pharmacokinetic profile,  18 which is how the drug actually behaves in  19 the drug as the active. And this  20 formulation of oxycodone and  21 acetaminophen actually stayed in the  22 blood for a longer period of time, which  23 means it provided better pain relief over  24 that period of time as opposed to spiking</p>



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1 and leaving. That's the pharmacokinetic  
2 profile.

3 Q. Okay. And what did you mean  
4 by dosing?

5 A. Smaller dosing less  
6 frequently than the other competitor  
7 products. This was a two-time-a-day drug  
8 versus the competitors, which were four  
9 to six.

10 Q. Got it. Okay. And how is  
11 that an advantage for this drug?

12 A. So if you think about the  
13 patients that are on the older  
14 opioid-based products, they have to take  
15 more, because the drug doesn't stay in  
16 their system longer. This requires them  
17 to take less. And it's easier to dose.  
18 And it's easier for them to manage as  
19 opposed to the other products.

20 Q. You go on to say, "I would  
21 also encourage the brand team to put  
22 forth a guarantee program around the  
23 product that states, if the physician and  
24 the patient are not satisfied with XXR,

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1 we will reimburse the cost of the co-pay  
2 for not only the patient in question, but  
3 for the next patient that the physician  
4 puts on the drug.

5 Do you see that?

6 A. I do.

7 Q. Was that program ever  
8 implemented?

9 A. I don't believe so.

10 Q. Do you know why?

11 A. I don't recall.

12 Q. "I would also like to take  
13 our highest performing 10 percent of reps  
14 and bring them together on a weekend to  
15 turn them loose on the organization and  
16 the nonprescribing physicians."

17 What does that mean?

18 A. So we had a group, a  
19 subgroup of specialists who were actually  
20 were doing well with the launch. And we  
21 had a vast majority that were not. So  
22 what we wanted to do was bring the reps  
23 that were doing well to help us  
24 understand what was working for them,

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1 what was not, and help educate the rest  
2 of the organization in how we could  
3 improve the -- the performance of the  
4 brand.

5 Q. Okay. Did that meeting  
6 happen?

7 A. I believe it did, yeah.

8 Q. Do you recall where it  
9 happened?

10 A. I don't.

11 Q. What was your role with  
12 respect to sales compensation incentive  
13 plans when you were the president of the  
14 specialty pharmacy business --  
15 pharmaceuticals business, sorry.

16 MR. O'CONNOR: Objection.

17 THE WITNESS: So the -- the  
18 sales incentive plans were  
19 developed by the business and then  
20 approved by the commercial  
21 operations group as well as HR and  
22 others. And I was shown them, but  
23 I was not involved in the  
24 generation or the creation of

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1 them.

2 BY MR. CHALOS:

3 Q. Did you have to approve them  
4 before they were implemented?

5 A. I'm sure I looked at them,  
6 I'm sure I -- I approved them, yeah, I'm  
7 sure I had input on it.

8 Q. And you -- we talked earlier  
9 about the messaging and I believe you  
10 said that that was something that was  
11 formulated by a committee?

12 A. It's a brand team.

13 Q. Brand team. Okay.

14 Did you have final approval  
15 over the messaging for the branded opioid  
16 products?

17 A. I provided input on it. And  
18 I did have final approval with the team  
19 to say whether we were comfortable with  
20 it or not.

21 Obviously, as we spoke about  
22 before, going through PRC or promotional  
23 review committee so it wasn't up to me  
24 entirely. It had to be based on legal,

<p style="text-align: right;">Page 102</p> <p>1 regulatory compliance review, and 2 medical. 3 Q. Did you have final signoff 4 on the messaging? 5 A. I didn't sign off on it, but 6 I knew of -- I -- I was involved in it. 7 Yeah, I saw it. 8 Q. Did you have any role with 9 respect to any marketing messaging for 10 the generic opioid products? 11 A. I did not. 12 Q. Who was responsible for 13 that? 14 A. I had a gentleman who worked 15 for me who ran that business, gentleman 16 by the name of Walt Kaczmarek. And 17 again, on -- on the opioid side, on the 18 generic side, remember, there's no 19 promotion going on there. 20 Q. Mm-hmm. 21 A. Those products are actually 22 sold through distributors and then the 23 prescriptions are written for just the 24 chemical and then they are filled at the</p>	<p style="text-align: right;">Page 104</p> <p>1 could launch our product. 2 And I came in specifically 3 with the idea of building out a branded 4 company. Even though I had generic 5 experience, the idea was to help build 6 the branded company as well. 7 Q. Who was in charge of 8 building the generics opioid business at 9 that point? 10 A. Walt Kaczmarek was the head 11 of the -- the generic business at that 12 point. 13 Q. Okay. Was he the head of it 14 during the entire time that you were 15 president of the specialty 16 pharmaceuticals business? 17 A. He was. 18 Q. Is he still? 19 A. No. 20 Q. Who -- who runs that 21 business now? 22 A. Matt Harbaugh is our -- is 23 the head of the generics business. 24 Q. Okay. Going back here to</p>
<p style="text-align: right;">Page 103</p> <p>1 pharmacy. But there's no promotion to 2 doctors on that side. 3 Q. What responsibility did you 4 have for the generic opioids business in 5 your role as the president of the 6 specialty pharmaceuticals business? 7 A. I had business reported 8 directly to me. So Walt was part of my 9 leadership team. He had responsibility 10 for the daily operations of it, and I 11 oversaw how the business performed versus 12 expectations and helped them set budgets 13 and those type of things. But the daily 14 operation was really Walt's -- Walt's 15 responsibility. 16 Q. Were -- were you more 17 hands-on on the brand side of the opioids 18 business at that point? 19 A. I was, yes. 20 Q. Why was that? 21 A. Because it was our first 22 launch as a brand-new company and we were 23 focusing more on that. Because that was 24 the opportunity for us to show that we</p>	<p style="text-align: right;">Page 105</p> <p>1 Exhibit Number 6. Next paragraph. It 2 says, "The bottom line is one have 3 one" -- I assume you mean we have one 4 common goal? 5 A. Yeah. 6 Q. In all caps, "Generate 7 prescriptions." 8 Do you see that? 9 A. I do. 10 Q. You meant generating 11 prescriptions of Xartemis? 12 A. I did. 13 Q. "Everything else that is not 14 generating prescriptions should become 15 secondary priority." 16 Do you see that? 17 A. I do. 18 Q. What did you mean by that? 19 A. So the focus of the 20 organization needed to be make sure that 21 we were able to communicate to the target 22 physicians about those patients that 23 could benefit from it. Educate the 24 physicians, allow them to make a choice</p>

<p style="text-align: right;">Page 106</p> <p>1 on how they wanted to prescribe the 2 product. 3 And anything that we weren't 4 doing around that, or anything that 5 wasn't focused there should be considered 6 a secondary priority. 7 Q. What other types of tasks 8 were you thinking of -- thinking of that 9 should become secondary priorities? 10 A. I can't recall. But, you 11 know, there -- there's other spends 12 involved in the business. But -- but I 13 can't recall exactly what was there. 14 Q. Okay. Were you interviewed 15 by anyone from the Drug Enforcement 16 Administration at any time? 17 A. I was not. 18 Q. How about the Federal Bureau 19 of Investigation? 20 A. I was not. 21 Q. When you were president of 22 the specialty pharmaceuticals business at 23 Mallinckrodt, you were aware that 24 physicians in Ohio were prescribing</p>	<p style="text-align: right;">Page 108</p> <p>1 a contractual vehicle. 2 Q. And what was the purpose of 3 that program? 4 A. To ensure that the 5 wholesalers were not out of -- out of the 6 cost of the drug, that they actually sold 7 to their clients at a lower price than 8 what they bought it for. It's industry 9 practice. 10 Q. Who was in charge of 11 negotiating those contracts with 12 distributors? 13 A. It would have been Walt and 14 his team. Walt Kaczmarek and his team. 15 Q. Did you have a periodic 16 meeting with Walt to discuss the generics 17 business? 18 A. I'm sure we did performance 19 reviews and discussions of how the -- the 20 products were performing. I don't know 21 how often it was, but I'm sure we met. 22 Yes. 23 Q. Okay. Did you have any 24 committee related to the generic opioids</p>
<p style="text-align: right;">Page 107</p> <p>1 Mallinckrodt opioid products, right? 2 A. I was aware that products 3 were prescribed across the country, yeah. 4 Q. And that would include Ohio? 5 A. That would include Ohio, 6 sure. 7 Q. Actually, let me grab this 8 one. 9 Were you familiar with the 10 Mallinckrodt chargeback program regarding 11 generic opioids while you were president 12 of the specialty pharmaceuticals 13 business? 14 A. I was familiar with the 15 chargeback program, yes. 16 Q. Okay. What -- what was the 17 chargeback program in general terms, what 18 was your understanding of it? 19 A. So the chargeback program is 20 designed to give back to the wholesalers 21 or the distributors, the -- the cost 22 difference between what they sold the 23 product for, versus what they bought it 24 from us for. And that's usually done via</p>	<p style="text-align: right;">Page 109</p> <p>1 business like some of these other 2 committees we talked about? 3 A. No, no, not a specific one 4 directly related to that business. But 5 that business would have been part of the 6 OC dialogue. Because it was part of my 7 responsibility. 8 Q. Was this a representative 9 from the generic opioids business on the 10 operating committee? 11 A. If we talked about that 12 business, Walt would come in and have a 13 dialogue about it, yes. 14 Q. Was there -- was he part of 15 the committee or would he be sort of 16 called in as needed? 17 A. Called in as needed. 18 Q. You mentioned earlier that 19 you had some experience with generics. 20 What did you mean by that? 21 A. I've worked in generic 22 businesses elsewhere in my career. I 23 started the generic business for Sanofi 24 in the U.S., what was at the time called</p>

<p style="text-align: right;">Page 110</p> <p>1 Winthrop Pharmaceuticals. And earlier in 2 my career when I worked for Sandoz, we 3 developed a company that was called 4 Kratom that then became Geneva, and then 5 ultimately became Sandoz or Novartis. 6 Q. Did you have any experience 7 with generic opioids prior to coming to 8 Mallinckrodt? 9 A. I did not. 10 Q. Had you any experience with 11 branded opioids before coming to 12 Mallinckrodt? 13 A. I did not. 14 Q. When you were president of 15 specialty pharmaceuticals business, did 16 you know that Mallinckrodt 17 pharmaceutical -- I'm sorry, that 18 Mallinckrodt generic opioids were being 19 sold in Ohio? 20 A. I knew they were being sold 21 nationally. So I can only assume that 22 they were also sold in Ohio. I did not 23 know the details behind it. 24 Q. Did you --</p>	<p style="text-align: right;">Page 112</p> <p>1 nationally. So, yes, I think they were 2 sold in Ohio, yes. 3 Q. Okay. Exhibit Number 7 is 4 from a person named Erich Singer. Who is 5 that? 6 A. He was a member of the 7 financial planning group. 8 Q. His title is listed here as 9 manager, FP&amp;A multi-source 10 pharmaceuticals. 11 Do you see that? 12 A. I do. 13 Q. What does all that mean? 14 A. Manager of financial 15 planning and analysis for the 16 multi-source pharmaceuticals, which is 17 the generic business. 18 Q. Okay. And you are listed in 19 this long list of recipients here as 20 being one of the persons to whom this 21 e-mail was sent in August of 2015. 22 Do you see that? 23 A. I do. 24 Q. Is this -- and the</p>
<p style="text-align: right;">Page 111</p> <p>1 MR. CHALOS: Let's mark this 2 as an exhibit. 3 (Document marked for 4 identification as Exhibit 5 Mallinckrodt-O'Neill-7.) 6 MR. CHALOS: I've marked as 7 Exhibit Number 7 MNK-T1_0002081432 8 through 1434. 1434 is an Excel 9 spreadsheet of a number of pages. 10 We've improved the process right 11 there. 12 MR. O'CONNOR: Good job. 13 BY MR. CHALOS: 14 Q. It's Exhibit Number 7. 15 A. Okay. 16 Q. Before we get to Exhibit 17 Number 7, I just want to make sure we got 18 this clear in the record. 19 When you were president of 20 the specialty pharmaceuticals business at 21 Mallinckrodt, did you know that 22 Mallinckrodt's generic opioids were being 23 sold in Ohio? 24 A. I knew they were sold</p>	<p style="text-align: right;">Page 113</p> <p>1 attachment -- well, let me back up. The 2 subject is "August daily sales by 3 customer." And the attachment is "August 4 MTD dosage daily sales," dated 5 August 31st of '15. And it's a 6 spreadsheet. 7 Did you receive a dosage 8 daily sales report on a periodic basis? 9 A. I don't recall receiving 10 this. But based on the e-mail, my name 11 is on the distribution list. So that 12 means I did. 13 Q. Okay. Do you recall during 14 this time frame in 2015 receiving daily 15 sales reports? 16 A. Like I said, I'm on the 17 distribution list, so I'm assuming I 18 received these, yes. 19 Q. Okay. When you were 20 president of the specialty 21 pharmaceuticals business, did you put 22 these daily sales reports to any use? 23 A. Mostly for tracking against 24 the budget and where we were versus the</p>

<p style="text-align: right;">Page 114</p> <p>1 expectation of the business.</p> <p>2 Q. So these pages aren't</p> <p>3 numbered. But which of -- in terms of</p> <p>4 that operation, tracking against the</p> <p>5 budget, which of the charts would be most</p> <p>6 meaningful to you as an example in</p> <p>7 Exhibit 7?</p> <p>8 A. So you have different</p> <p>9 exhibits here. One is a month to date,</p> <p>10 one is a quarter to date, and one is a</p> <p>11 year to date. So we would look at all of</p> <p>12 those to see where the business was</p> <p>13 trending. Mostly at the net sales level.</p> <p>14 Q. Okay. What is the</p> <p>15 difference between net sales and gross?</p> <p>16 A. The chargebacks mostly.</p> <p>17 Q. Was there anything else that</p> <p>18 was subtracted from the gross sales to</p> <p>19 yield the net sales number?</p> <p>20 A. It includes other</p> <p>21 deductions, returns and other things.</p> <p>22 But the chargebacks are the majority of</p> <p>23 that difference.</p> <p>24 Q. So for example, the net</p>	<p style="text-align: right;">Page 116</p> <p>1 switched. We were on a fiscal year for a</p> <p>2 period of time, and we switched to a</p> <p>3 calendar year. I can't remember whether</p> <p>4 that happened, if it was in '15, or '16.</p> <p>5 I can't recall.</p> <p>6 Q. The fiscal year ended in the</p> <p>7 end of September?</p> <p>8 A. That's correct, yes.</p> <p>9 Q. At some point, Mallinckrodt</p> <p>10 changed to a calendar year accounting?</p> <p>11 A. We did.</p> <p>12 Q. Do you know why that change</p> <p>13 was made?</p> <p>14 A. I think it was driven by</p> <p>15 normal behavior, what you saw in the</p> <p>16 market. Most people were on calendar</p> <p>17 years versus -- versus fiscal years.</p> <p>18 Q. You can put that to the side</p> <p>19 for now. Did I take the other one? This</p> <p>20 is always a struggle to stay organized in</p> <p>21 these things.</p> <p>22 We've marked as Exhibit</p> <p>23 Number 8 MNK-T1_0005150446 and 447. 447</p> <p>24 is a PowerPoint that was produced in</p>
<p style="text-align: right;">Page 115</p> <p>1 sales analysis -- let me see here.</p> <p>2 A. Is that the second-to-last</p> <p>3 page?</p> <p>4 Q. Yeah, that would be a good</p> <p>5 place to start. Yeah, so second-to-last</p> <p>6 page, which is, actually, four pages from</p> <p>7 the back, they are two-sided pages, where</p> <p>8 it says net sales analysis.</p> <p>9 Is that one of the charts</p> <p>10 that you would typically review in</p> <p>11 connection with measuring the sales --</p> <p>12 actual sales to budget sales?</p> <p>13 A. Yes.</p> <p>14 Q. And this example in Exhibit</p> <p>15 Number 7 shows that, at least in August</p> <p>16 of 2015, the actual sales were about</p> <p>17 9.8 percent short of the budgeted sales</p> <p>18 year to date?</p> <p>19 A. That's correct, yes.</p> <p>20 Q. Okay. So the -- at this</p> <p>21 time in 2015, was Mallinckrodt counting</p> <p>22 on a calendar year or on some other</p> <p>23 basis?</p> <p>24 A. I don't remember when we</p>	<p style="text-align: right;">Page 117</p> <p>1 native format.</p> <p>2 (Document marked for</p> <p>3 identification as Exhibit</p> <p>4 Mallinckrodt-O'Neill-8.)</p> <p>5 BY MR. CHALOS:</p> <p>6 Q. The PowerPoint says "Top</p> <p>7 prescribers network analysis LTD:</p> <p>8 09/12," and it's dated October 6th of</p> <p>9 2014.</p> <p>10 You can take as much time as</p> <p>11 you need to. I'm going to direct you to</p> <p>12 specific pages that we have questions</p> <p>13 about. But you can certainly review the</p> <p>14 whole thing.</p> <p>15 A. Okay.</p> <p>16 Q. Did you have any role in</p> <p>17 deciding whether the company would</p> <p>18 purchase any additional businesses at any</p> <p>19 time while you were at Mallinckrodt?</p> <p>20 A. I did, yes.</p> <p>21 Q. Okay. What was your role in</p> <p>22 that respect?</p> <p>23 A. So as part of the executive</p> <p>24 team, working closely with the head of</p>



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1 strategy, I provided input on where we  
2 thought there might be opportunities and  
3 reviewed those opportunities accordingly.

4 Q. Did you -- did the company  
5 in fact purchase any additional  
6 businesses at -- while you were -- let me  
7 try that again.

8 Did the company actually  
9 purchase any businesses that you  
10 recommended the company to purchase?

11 A. As part of the team, yes we  
12 did.

13 Q. Okay. Which were those?

14 A. In 2014 we acquired a  
15 company called Cadence Pharmaceuticals,  
16 and then shortly thereafter we acquired a  
17 company called Questcor Pharmaceuticals.  
18 And both of those were opportunities that  
19 I supported.

20 Q. Did either of those relate  
21 to opioids in any way?

22 A. Cadence was a pain --  
23 hospital-based pain company which had an  
24 IV formulation of acetaminophen, also

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1 known as Ofirmev, which is a  
2 non-opioid-based pain product used in  
3 pre- and peri-postoperative pain  
4 management. But Questcor, no.

5 Q. Did Cadence have any  
6 opioid-related products?

7 A. No.

8 Q. Did Mallinckrodt ever  
9 purchase a company called Orexo?

10 A. No.

11 Q. Is there -- do you recall a  
12 discussion about potentially exploring an  
13 opportunity related to Orexo?

14 A. I don't recall the  
15 conversation. It wouldn't surprise me if  
16 we did. We looked at a lot of different  
17 opportunities.

18 Q. When you recommended the  
19 purchase of an additional business, who  
20 would ultimately have to approve that  
21 purchase?

22 A. Ultimately it would be the  
23 board of directors would have to approve  
24 the -- the move to acquire another

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1 company.

2 Q. Do you recall any of the  
3 persons actually on the board of  
4 directors?

5 A. I do.

6 Q. Okay. Who do you remember?

7 A. At that time Mel Booth was  
8 the chair of the board. Marty Carroll  
9 was one of the directors. Joe Zaccagnino  
10 another director. JoAnn Reed, another  
11 director. Kneeland Youngblood, another  
12 director. Those are the major ones I  
13 remember. I don't remember all of them.

14 Q. Was somebody named Diane  
15 Golias on a board?

16 A. Yes. Diane was on the  
17 board.

18 Q. Okay. David Carlucci?

19 A. That's correct.

20 Q. Paul Carter?

21 A. Back then no. Paul was not  
22 on the board. He's a relatively new  
23 addition.

24 Q. I was going to say, he is on

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1 the board now?

2 A. Yes.

3 Q. Okay. What about David  
4 Norton?

5 A. He's a relatively new  
6 addition. He was not on the board at  
7 that time.

8 Q. Angus Russell?

9 A. Not on the -- he came on the  
10 board after we purchased Questcor.

11 Q. Mark Trudeau?

12 A. Yes.

13 Q. He has been on the board the  
14 whole time you've been there?

15 A. As the CEO yes he has.

16 Q. Anne Whitaker?

17 A. At that point she was not on  
18 the board. She's a recent addition.

19 Q. Virgil Thompson?

20 A. He came on the board after  
21 the acquisition of Questcor.

22 Q. Do you have any say in who  
23 gets onto the board?

24 A. I do not.



<p style="text-align: right;">Page 122</p> <p>1 Q. How do the board members get 2 chosen, do you know? 3 A. By the board itself and by 4 recommendation from external search 5 firms, and they make the final decision. 6 Q. Okay. So let's get back to 7 Exhibit 8. 8 Believe me, that's 9 shortening the deposition when I go off 10 on these tangents, so... 11 Anyway, let's get back to 12 Exhibit 8 here. This is an e-mail from a 13 person named Antoine Uwimana? 14 A. That's correct. 15 Q. Who is Mr. Uwimana -- 16 Uwimana? 17 A. Antoine was the individual 18 who replaced Sanjeev who I mentioned 19 earlier. So he became the head of 20 business analytics after Sanjeev left. 21 Q. Okay. And the head of 22 business analytics reported to you? 23 A. No. Actually the head of 24 business analytics reported to Gary</p>	<p style="text-align: right;">Page 124</p> <p>1 this or ever reviewing this in the past? 2 A. I don't recall receiving it. 3 Q. Okay. Well, the -- the 4 first page of the attachment, which is 5 the -- it's the third page of this 6 exhibit. It says, "Top prescribers 7 network analysis, LTD: 09/12." 8 Do you see that? 9 A. I do. 10 Q. Do you have any idea what 11 LTD: 09/12 is? 12 A. I don't. I don't recall, 13 no. 14 Q. In reviewing this now, do 15 you have any idea what this PowerPoint 16 is? 17 A. I do. It's a -- it's an 18 analysis by region of target physicians 19 and their productivity, and looking at 20 their specialty and their ranking versus 21 the deciling of the -- the targets? 22 Q. I'm sorry, what was the very 23 last part of that? 24 A. Against the deciling of the</p>
<p style="text-align: right;">Page 123</p> <p>1 Phillips who was the head of strategy 2 and -- and -- strategy and business 3 development. 4 Q. And Mr. Phillips is based in 5 London? 6 A. Doc Phillips, yes, he was 7 based in London. He is no longer with 8 the company. 9 Q. Was Mr. Uwimana located in 10 the U.S.? 11 A. Yes. 12 Q. Where? 13 A. At this point in time I 14 think St. Louis. 15 Q. Okay. So he sent this 16 e-mail to you and Mr. Paterson on 17 October 7th of 2014, 7/57 p.m., and there 18 is some attachments here. But the 19 subject line is Xartemis XR updated 20 districts and network analysis. Do you 21 see that? 22 A. I do. 23 Q. Okay. Do you -- as you sit 24 here today, do you recall ever receiving</p>	<p style="text-align: right;">Page 125</p> <p>1 targets. So the way the physicians are 2 segmented is the deciling of how 3 important they are. If they are 4 affiliated with hospitals, if they have a 5 strong network, those type of things. So 6 that's what this is. 7 Q. Okay. And that deciling was 8 an attempt to determine which physicians 9 were most likely to be candidates who 10 prescribe Mallinckrodt products for the 11 appropriate patients? 12 A. This is specific to Xartemis 13 XR. But yes, it was identified to give 14 direction to the field so that they would 15 spend time where there was the highest 16 probability of success. 17 Q. And how did -- well, who 18 within Mallinckrodt made the 19 determination as to where a particular 20 physician would fit within the deciling 21 framework? 22 A. So that would be a 23 combination of the brand team as well as 24 the business analytics group that would</p>

<p style="text-align: right;">Page 126</p> <p>1 make that final decision.</p> <p>2 Q. And is that based -- I'm</p> <p>3 sorry?</p> <p>4 A. Or recommendation.</p> <p>5 Q. Okay. Was that based on</p> <p>6 their prior prescribing habits?</p> <p>7 A. That was one variable. It</p> <p>8 could also be the variable of how many</p> <p>9 patients they saw that had this</p> <p>10 indication or potential issue. What --</p> <p>11 what organizations they were affiliated</p> <p>12 with. In other words, did -- were they</p> <p>13 part of a group practice, an individual</p> <p>14 practice. There's lots of variables that</p> <p>15 lead into it.</p> <p>16 Q. If you look at the -- it's</p> <p>17 labeled Page 2 of the PowerPoint. It</p> <p>18 says on the top, "National level summary</p> <p>19 for top 25 prescribers."</p> <p>20 Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. Okay. Were these top 25</p> <p>23 prescribers, was that designation based</p> <p>24 on potential or is that based on past</p>	<p style="text-align: right;">Page 128</p> <p>1 Tennessee was as far as region.</p> <p>2 Q. It looks like the South</p> <p>3 Central, as far as I can tell, is</p> <p>4 responsible for, among the top 25</p> <p>5 prescribers, 50 percent of them, if you</p> <p>6 look at the chart on the right.</p> <p>7 Can you tell that? Maybe</p> <p>8 you can't tell that from yours.</p> <p>9 A. I can tell that. Yes,</p> <p>10 that's correct.</p> <p>11 Q. Okay. All right. How</p> <p>12 would the Mallinckrodt crew determine how</p> <p>13 many patients a particular physician</p> <p>14 would see with a certain potential</p> <p>15 indication?</p> <p>16 A. So when we looked across</p> <p>17 the -- the targets, we'd look at past</p> <p>18 prescribing behavior. We'd also look at</p> <p>19 treatment codes. In other words, as you</p> <p>20 know, there's different treatment codes.</p> <p>21 They are also referred to as ICD-9s,</p> <p>22 ICD-10s, which tells you how they are</p> <p>23 treating certain patients and that would</p> <p>24 be driving a lot of the segmentation.</p>
<p style="text-align: right;">Page 127</p> <p>1 prescriptions?</p> <p>2 A. Based on the -- the title,</p> <p>3 it would be based on their prescriptions</p> <p>4 of the product. That's the way I would</p> <p>5 interpret it.</p> <p>6 Q. Okay. And if you look at</p> <p>7 the chart to the right, now I'm afraid</p> <p>8 I -- I think I've handed you a black and</p> <p>9 white version of this.</p> <p>10 A. Mm-hmm.</p> <p>11 Q. Okay. All right. Well,</p> <p>12 then that's not going to be terribly</p> <p>13 helpful.</p> <p>14 If you look at the second</p> <p>15 bullet point there in the shaded section.</p> <p>16 It says, "Top 25 prescribers were mostly</p> <p>17 concentrated in the South Central."</p> <p>18 Do you see that?</p> <p>19 A. I do.</p> <p>20 Q. "Followed by the East</p> <p>21 region."</p> <p>22 Was Tennessee in the South</p> <p>23 Central?</p> <p>24 A. I don't recall where</p>	<p style="text-align: right;">Page 129</p> <p>1 Q. And from where did</p> <p>2 Mallinckrodt get the data about the</p> <p>3 diagnosis codes that different physicians</p> <p>4 would use for their patients?</p> <p>5 MR. O'CONNOR: Objection.</p> <p>6 THE WITNESS: Third --</p> <p>7 third-party providers. I don't</p> <p>8 remember who exactly.</p> <p>9 BY MR. CHALOS:</p> <p>10 Q. So in other words, you --</p> <p>11 you could -- you, Mallinckrodt, could get</p> <p>12 data to say, Dr. Jones has diagnosed X</p> <p>13 number of patients with a certain</p> <p>14 affliction over the past year?</p> <p>15 A. Yes. That's exactly the</p> <p>16 idea.</p> <p>17 Q. And you also could get the</p> <p>18 data that says Dr. Jones prescribed X</p> <p>19 number of prescriptions for, for example,</p> <p>20 Xartemis over the past year?</p> <p>21 A. Yes.</p> <p>22 Q. Was that true that that</p> <p>23 information was available to Mallinckrodt</p> <p>24 during the entire time that you were</p>

<p style="text-align: right;">Page 130</p> <p>1 president of the pharmaceutical --</p> <p>2 specialty pharmaceuticals business?</p> <p>3 A. I don't recall the timing of</p> <p>4 when we put certain pieces in or not.</p> <p>5 The third-party data is available, yes.</p> <p>6 Q. Is it still available today?</p> <p>7 A. I believe so.</p> <p>8 Q. Was that available during</p> <p>9 the time that you were working at Sanofi</p> <p>10 as well?</p> <p>11 A. Yes. You have to buy it.</p> <p>12 You have to buy it from a third-party</p> <p>13 provider.</p> <p>14 Q. Right. But it's been</p> <p>15 available on the market for at least a</p> <p>16 couple of decades now?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. What is -- what is</p> <p>19 your role presently with respect to the</p> <p>20 political action committee or the PAC?</p> <p>21 A. So I serve as the chair of</p> <p>22 the PAC which oversees the political</p> <p>23 decisions and the overall fundraising for</p> <p>24 the political action committee. And the</p>	<p style="text-align: right;">Page 132</p> <p>1 (Document marked for</p> <p>2 identification as Exhibit</p> <p>3 Mallinckrodt-O'Neill-9.)</p> <p>4 BY MR. CHALOS:</p> <p>5 Q. I'll hand you what we've</p> <p>6 marked as Exhibit Number 9. It's</p> <p>7 MNK-T1_0002402270 through 2287.</p> <p>8 A. Okay.</p> <p>9 Q. So if you look at the second</p> <p>10 page of Exhibit Number 9, a letter from</p> <p>11 the chairman.</p> <p>12 You say here -- and it's</p> <p>13 your name here at the bottom of the</p> <p>14 signature. That's you, right, the</p> <p>15 chairman?</p> <p>16 A. That is me, yes.</p> <p>17 Q. Okay. Just in case you</p> <p>18 weren't sure, they put your picture on</p> <p>19 here too.</p> <p>20 A. Yes.</p> <p>21 Q. "The Mallinckrodt political</p> <p>22 action committee, MNKPAC, just celebrated</p> <p>23 its second anniversary." So I guess that</p> <p>24 puts its start sometime in 2014?</p>
<p style="text-align: right;">Page 131</p> <p>1 recommendations are brought to the board</p> <p>2 as far as who we should support and why</p> <p>3 we should support them, those types of</p> <p>4 things.</p> <p>5 Q. To which board?</p> <p>6 A. The PAC board.</p> <p>7 Q. How did you end up being the</p> <p>8 chair of the Mallinckrodt PAC?</p> <p>9 MR. O'CONNOR: Objection.</p> <p>10 THE WITNESS: I was asked to</p> <p>11 serve as the chair of the PAC,</p> <p>12 because of my -- my history in the</p> <p>13 industry and my passion for what</p> <p>14 we do.</p> <p>15 BY MR. CHALOS:</p> <p>16 Q. Who asked you to serve in</p> <p>17 that role?</p> <p>18 A. The head of the government</p> <p>19 affairs group down in DC, Mark Tyndall.</p> <p>20 Q. When did Mr. Tyndall ask you</p> <p>21 to serve in that role?</p> <p>22 A. I don't remember the exact</p> <p>23 date. But I've been doing it for a</p> <p>24 couple of years now.</p>	<p style="text-align: right;">Page 133</p> <p>1 A. That's correct, yes.</p> <p>2 Q. Were you the original chair?</p> <p>3 A. I don't recall whether I was</p> <p>4 the original or not. I know I came on</p> <p>5 around that time, so...</p> <p>6 Q. So the numbers that are set</p> <p>7 forth here on the second page of</p> <p>8 Exhibit 9, those numbers are correct in</p> <p>9 terms of contributions and --</p> <p>10 A. Based on what it says here</p> <p>11 in the report, I would say yes.</p> <p>12 Q. Okay. If you go to the very</p> <p>13 last sentence. It says, "On behalf of</p> <p>14 the executive committee and our</p> <p>15 government affairs team, thank you for</p> <p>16 your leadership and continued commitment</p> <p>17 to MNKPAC."</p> <p>18 Do you see that?</p> <p>19 A. Yes, I do.</p> <p>20 Q. Is that -- is that how it's</p> <p>21 said MNKPAC?</p> <p>22 A. Yes.</p> <p>23 Q. It's not "MNKPAC"?</p> <p>24 A. No, it's MNKPAC.</p>

<p style="text-align: right;">Page 134</p> <p>1 Q. Okay. What is the executive 2 committee that you're talking about 3 there? 4 A. It's the executive committee 5 of the company. 6 Q. Okay. So those are -- 7 that's the one with Mr. Trudeau and you 8 and CFO and those other folks? 9 A. That's correct. 10 Q. Okay. The contributors to 11 MNKPAC are primarily Mallinckrodt 12 employees; is that right? 13 A. They are all Mallinckrodt 14 employees, yes. 15 Q. Okay. So if you flip over 16 to Page 6 of Exhibit 9, the Bates number 17 ends in 2276. It shows the bottom chart 18 there, annual MNKPAC receipts, \$203,157. 19 Do you see that? 20 A. I do. 21 Q. Was that -- was that an 22 actual number of contributions or is that 23 a projected number? 24 A. So based on the chart I'm</p>	<p style="text-align: right;">Page 136</p> <p>1 referring to there? 2 A. I don't recall what the 3 specific policies were. 4 Q. Okay. What was the role of 5 the Mallinckrodt executive team with 6 respect to the PAC? 7 A. So if you go back to what 8 the executive committee is responsible 9 for, it's for the direction and the 10 policies of the organization, strategy. 11 And the environment that we compete in is 12 a very -- is very -- actually can 13 sometimes be difficult, and it's 14 influenced by many different things, 15 including government policies. 16 So the executive committee 17 was, and is, very concerned about the 18 environment we compete in. And so 19 that's -- their role is to understand it 20 and to potentially work with members of 21 the team to figure out what's the best 22 way to manage them. 23 Q. And the executive committee 24 reports to the board of directors of</p>
<p style="text-align: right;">Page 135</p> <p>1 reading, it says projected. So I'm 2 assuming it's a projected number. 3 Q. Do you know whether that 4 goal was reached? 5 A. I don't recall. 6 Q. Okay. If you flip over to 7 the next page, Page 8, which is Bates 8 number ending in 2278. There's a section 9 here, "Opioid epidemic congressional 10 action." It refers to the Comprehensive 11 Addiction and Recovery Act, CARA. 12 Do you see that? 13 A. I do. 14 Q. Third sentence there says, 15 "The Mallinckrodt federal government 16 affairs team actively engaged with 17 Congress and the administration to 18 convert a potentially treacherous 19 political situation to one in which 20 includes policies that are favorable to 21 Mallinckrodt." 22 Do you see that? 23 A. I do. 24 Q. What policies were you</p>	<p style="text-align: right;">Page 137</p> <p>1 Mallinckrodt? 2 A. Yes. They report to Mark, 3 who then in turn is part of the board of 4 directors and so forth. 5 Q. Mr. Trudeau has actually a 6 seat on the board of directors for 7 Mallinckrodt? 8 A. He does. 9 Q. So if you -- okay. That's 10 all with this document. You are aware in 11 2017 there were some discussions of 12 selling the specialty pharmacy -- sorry, 13 specialty pharmaceuticals business to 14 some third-party buyers. Do you recall 15 that? 16 A. The specialty pharmaceutical 17 business or the -- 18 Q. Is it broader than that? 19 A. No, I'm asking for 20 clarification. I'm not sure exactly what 21 you're asking. 22 Q. Okay. There's something 23 called Project Georgetown. Do you recall 24 that?</p>

<p style="text-align: right;">Page 138</p> <p>1 A. Yes.</p> <p>2 Q. What was that?</p> <p>3 A. That is potential sale of</p> <p>4 the generic business, the generic and API</p> <p>5 business.</p> <p>6 Q. Okay. And that included the</p> <p>7 opioids business?</p> <p>8 A. The generic opioid business.</p> <p>9 We were out of the branded at that time,</p> <p>10 so yes.</p> <p>11 Q. And what role, if any, did</p> <p>12 you have in connection with the potential</p> <p>13 sale of that business?</p> <p>14 A. None. I was aware of the</p> <p>15 project, but I wasn't actively involved</p> <p>16 in it at all.</p> <p>17 Q. Who was involved in it, if</p> <p>18 you know?</p> <p>19 MR. O'CONNOR: Objection.</p> <p>20 THE WITNESS: At the time,</p> <p>21 Frank Scholz, who was the head of</p> <p>22 manufacturing, actually became the</p> <p>23 head of the generic business at</p> <p>24 that point in time. He was</p>	<p style="text-align: right;">Page 140</p> <p>1 mean?</p> <p>2 A. The companies, the executive</p> <p>3 committee, the board.</p> <p>4 Q. Okay. Selling the specialty</p> <p>5 generics business was something that</p> <p>6 would have to be approved by the board of</p> <p>7 directors?</p> <p>8 A. That is correct, yes.</p> <p>9 Q. You are aware that the</p> <p>10 specialty pharmaceuticals business is</p> <p>11 being spun off sometime later this year?</p> <p>12 A. I am.</p> <p>13 Q. What is your role in</p> <p>14 connection with that spinoff?</p> <p>15 A. I'm aware of it. But I'm</p> <p>16 not actively involved in the project. My</p> <p>17 role is more focused on the branded</p> <p>18 business that will be left and the</p> <p>19 repositioning of that business post the</p> <p>20 separation of the generics.</p> <p>21 Q. Whose decision was it to</p> <p>22 spin off the specialty pharmaceuticals</p> <p>23 business?</p> <p>24 MR. O'CONNOR: Objection.</p>
<p style="text-align: right;">Page 139</p> <p>1 running point on the project with</p> <p>2 Matt Harbaugh, who was the CFO at</p> <p>3 the time.</p> <p>4 BY MR. CHALOS:</p> <p>5 Q. Whose decision was it to</p> <p>6 explore the potential sale of the</p> <p>7 specialty generics business?</p> <p>8 MR. O'CONNOR: Objection.</p> <p>9 THE WITNESS: So we had</p> <p>10 always said that our goal was to</p> <p>11 become a standalone specialty</p> <p>12 branded company. And that's why</p> <p>13 we sold the imaging business.</p> <p>14 That's why we were getting -- we</p> <p>15 were diversifying ourself away</p> <p>16 from the older legacy brands. So</p> <p>17 it was always our -- our strategy</p> <p>18 to be a standalone branded</p> <p>19 company.</p> <p>20 So the decision to look at</p> <p>21 options for this was part of our</p> <p>22 strategy.</p> <p>23 BY MR. CHALOS:</p> <p>24 Q. When you say our, who do you</p>	<p style="text-align: right;">Page 141</p> <p>1 THE WITNESS: The proposal</p> <p>2 was made to the board of directors</p> <p>3 from the strategy team and the</p> <p>4 executive committee. And the</p> <p>5 board of directors supported</p> <p>6 looking at the potential spin of</p> <p>7 the business as an option.</p> <p>8 BY MR. CHALOS:</p> <p>9 Q. And it's ultimately the</p> <p>10 board of directors' decision whether to</p> <p>11 spin off the specialty pharmaceuticals</p> <p>12 business?</p> <p>13 MR. O'CONNOR: Objection.</p> <p>14 THE WITNESS: It is, yeah,</p> <p>15 their decision is key to the</p> <p>16 opinion to do that, yes.</p> <p>17 MR. O'CONNOR: All right.</p> <p>18 We've been going a little over an</p> <p>19 hour. Just want to -- do you want</p> <p>20 to take a break?</p> <p>21 MR. CHALOS: Yeah, we can</p> <p>22 take a break if you want to take a</p> <p>23 break.</p> <p>24 THE VIDEOGRAPHER: Remove</p>



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1 your microphones. The time is  
 2 1:48 p.m. We are off the record.  
 3 (Short break.)  
 4 THE VIDEOGRAPHER: We are  
 5 back on the record. The time is  
 6 2:07 p.m.  
 7 BY MR. CHALOS:  
 8 Q. Was Steven Romano on the  
 9 executive committee?  
 10 A. Yes.  
 11 Q. What is his position?  
 12 A. He's the chief science  
 13 officer for the company.  
 14 Q. Who was in charge of the  
 15 proposed spinoff of the specialty  
 16 pharmaceuticals business?  
 17 A. I'm not actively involved in  
 18 that. It's actually being run by -- as  
 19 part of the board's responsibility. I  
 20 don't even know who is actually running  
 21 point on it.  
 22 Q. Okay. Do -- do you know who  
 23 would know about that, the specifics of  
 24 that proposed spinoff within the company?

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1 MR. O'CONNOR: Objection.  
 2 THE WITNESS: Like I said,  
 3 it was a decision made at the  
 4 board level back a couple years  
 5 ago. My guess is it would be  
 6 members of the management team  
 7 that are actively involved. And  
 8 I'm not.  
 9 BY MR. CHALOS:  
 10 Q. Okay.  
 11 MR. CHALOS: Do you have  
 12 something to say?  
 13 MR. O'CONNOR: No, no, no.  
 14 I'm just -- nothing. Go ahead.  
 15 BY MR. CHALOS:  
 16 Q. Do you agree that  
 17 pharmaceutical marketing should support  
 18 and promote the safe use of medications?  
 19 MR. O'CONNOR: Objection.  
 20 THE WITNESS: Pharmaceutical  
 21 marketing should always focus in  
 22 on the best use of the product for  
 23 the patients that could benefit  
 24 from it.

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1 BY MR. CHALOS:  
 2 Q. Do you agree that companies  
 3 marketing pharmaceuticals should always  
 4 put patient safety before profits?  
 5 MR. O'CONNOR: Objection.  
 6 THE WITNESS: Pharmaceutical  
 7 companies should always put  
 8 patient safety in front of the  
 9 business results.  
 10 BY MR. CHALOS:  
 11 Q. Do you agree that companies  
 12 marketing pharmaceuticals must always be  
 13 truthful?  
 14 MR. O'CONNOR: Objection.  
 15 THE WITNESS:  
 16 Pharmaceuticals are the most  
 17 regulated industry, and everything  
 18 that we do actually is dictated by  
 19 the FDA in our claims. So  
 20 absolutely, we should be in full  
 21 compliance of that.  
 22 BY MR. CHALOS:  
 23 Q. And when pharmaceutical  
 24 sales reps are in the field speaking with

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1 physicians, everything they tell the  
 2 physician should be truthful?  
 3 MR. O'CONNOR: Objection.  
 4 THE WITNESS: Everything  
 5 they should tell a physician  
 6 should be online with what they  
 7 are approved to say.  
 8 BY MR. CHALOS:  
 9 Q. Do you agree that a company  
 10 marketing pharmaceuticals must never make  
 11 a false or misleading statement to the  
 12 medical community?  
 13 MR. O'CONNOR: Objection.  
 14 THE WITNESS: Again, as a  
 15 highly regulated industry, what we  
 16 say is controlled. And that's  
 17 what the -- that's what the rep  
 18 should be able to say. It should  
 19 be on -- on label, on point and  
 20 approved.  
 21 BY MR. CHALOS:  
 22 Q. And truthful?  
 23 A. Mm-hmm, yes.  
 24 MR. O'CONNOR: Objection.

<p style="text-align: right;">Page 146</p> <p>1 BY MR. CHALOS:</p> <p>2 Q. Do you agree that</p> <p>3 pharmaceutical companies marketing</p> <p>4 pharmaceuticals must always accurately</p> <p>5 disclose information about the risks of</p> <p>6 their products in addition to the</p> <p>7 benefits of the product?</p> <p>8 MR. O'CONNOR: Objection.</p> <p>9 THE WITNESS: There should</p> <p>10 always be fair balance in every</p> <p>11 communication regarding the</p> <p>12 benefits and the risk of the</p> <p>13 product.</p> <p>14 BY MR. CHALOS:</p> <p>15 Q. Do you agree that</p> <p>16 pharmaceutical companies should be</p> <p>17 transparent about who or what they</p> <p>18 financially support?</p> <p>19 MR. O'CONNOR: Objection.</p> <p>20 THE WITNESS: Again, we're</p> <p>21 under specific regulatory</p> <p>22 requirements to report where we</p> <p>23 spend our money and how we support</p> <p>24 it, so yes.</p>	<p style="text-align: right;">Page 148</p> <p>1 promoting our product, yes.</p> <p>2 MR. CHALOS: Okay. I</p> <p>3 believe those are all the</p> <p>4 questions I have for now.</p> <p>5 Mr. Gotto is going to have some</p> <p>6 questions as well.</p> <p>7 - - -</p> <p>8 EXAMINATION</p> <p>9 - - -</p> <p>10 BY MR. GOTTO:</p> <p>11 Q. Good afternoon, Mr. O'Neill.</p> <p>12 A. Good afternoon.</p> <p>13 Q. My name is Gary Gotto. I'm</p> <p>14 with the law firm Keller Rorhrback. And</p> <p>15 we're -- are among the lawyers</p> <p>16 representing the plaintiffs in the</p> <p>17 multi-district litigation involving the</p> <p>18 opioids.</p> <p>19 I have a few questions for</p> <p>20 you.</p> <p>21 First, during your time when</p> <p>22 you -- when you had responsibility with</p> <p>23 respect to Mallinckrodt's generics</p> <p>24 business, would you have viewed it as</p>
<p style="text-align: right;">Page 147</p> <p>1 BY MR. CHALOS:</p> <p>2 Q. Okay. Do you agree that</p> <p>3 companies marketing pharmaceuticals</p> <p>4 should never disguise marketing as</p> <p>5 scientific or educational efforts?</p> <p>6 MR. O'CONNOR: Objection.</p> <p>7 THE WITNESS: We should</p> <p>8 always be upfront about how we're</p> <p>9 spending our dollars and promoting</p> <p>10 the product and how they -- those</p> <p>11 are being positioned in the</p> <p>12 marketplace.</p> <p>13 BY MR. CHALOS:</p> <p>14 Q. And you agree that companies</p> <p>15 marketing pharmaceuticals should be</p> <p>16 upfront about when they are marketing a</p> <p>17 product as opposed to when they are</p> <p>18 conveying scientific or educational</p> <p>19 information?</p> <p>20 MR. O'CONNOR: Objection.</p> <p>21 THE WITNESS: Again, as a</p> <p>22 regulatory requirement, we are</p> <p>23 always upfront about how we -- we</p> <p>24 actually are spending and</p>	<p style="text-align: right;">Page 149</p> <p>1 suspicious if you had learned that</p> <p>2 physicians and pain clinics were</p> <p>3 purchasing Mallinckrodt oxycodone from a</p> <p>4 Mallinckrodt distributor who did business</p> <p>5 as a veterinary supply company?</p> <p>6 MR. O'CONNOR: Objection.</p> <p>7 THE WITNESS: Again, I was</p> <p>8 not actively involved in the</p> <p>9 details. We had order monitoring,</p> <p>10 people that managed that. That</p> <p>11 was their responsibility. So I</p> <p>12 would not have seen that.</p> <p>13 BY MR. GOTTO:</p> <p>14 Q. I take it from that answer</p> <p>15 that you were not aware of such a</p> <p>16 circumstance then; is that correct?</p> <p>17 A. Yes. That's correct. I</p> <p>18 don't recall that at all.</p> <p>19 Q. Okay. Understanding that,</p> <p>20 if you had become aware of that</p> <p>21 circumstance when you had responsibility</p> <p>22 for the generics business, would you have</p> <p>23 viewed that as a suspicious circumstance?</p> <p>24 MR. O'CONNOR: Objection.</p>

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1 THE WITNESS: Again, we have  
2 suspicious ordering in place. My  
3 expectation is they would have  
4 caught that and they would have  
5 managed it appropriately.

6 BY MR. GOTTO:

7 Q. Okay. And if you had  
8 learned of the existence of such ordering  
9 and had learned -- would you have taken  
10 steps to evaluate what, if any, actions  
11 the personnel under you with  
12 responsibility for suspicious order  
13 monitoring had taken with regard to those  
14 orders?

15 MR. O'CONNOR: Objection.

16 THE WITNESS: Just as I  
17 mentioned before, the suspicious  
18 ordering was separate from the  
19 commercial organization. So my  
20 expectation is that they would  
21 have taken the appropriate  
22 actions. It would not have been  
23 my scope of responsibility.

24 BY MR. GOTTO:

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1 Q. Okay. Would you have been  
2 surprised to learn that such orders had  
3 occurred over a thousand times?

4 MR. O'CONNOR: Objection.

5 THE WITNESS: Again, I have  
6 no -- no recollection of that. I  
7 don't even know the details of it.

8 BY MR. GOTTO:

9 Q. Understanding that you don't  
10 have any understanding of whether it did  
11 or didn't happen. If you had learned  
12 that there had been such orders filled  
13 over a thousand times by a Mallinckrodt  
14 distributor who was doing business as a  
15 veterinary supply, would that have  
16 surprised you?

17 MR. O'CONNOR: Objection.

18 THE WITNESS: Again, it  
19 would not have been something that  
20 I would have known or been  
21 knowledgeable about at that point.

22 BY MR. GOTTO:

23 Q. Understood. And that's the  
24 reason my question is posed in a

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1 hypothetical, if you will.

2 A. Right.

3 Q. If you had learned of that  
4 circumstance, would that have surprised  
5 you?

6 MR. O'CONNOR: Objection.

7 THE WITNESS: It would --  
8 again, having not been involved in  
9 it, it's hard for me to speculate  
10 about how I would react to it. I  
11 don't know the details of it. It  
12 would be hard for me to respond to  
13 that.

14 BY MR. GOTTO:

15 Q. Okay. What if you had learn  
16 such sales had occurred 12,000 times?

17 MR. O'CONNOR: Objection.

18 THE WITNESS: Same  
19 situation.

20 BY MR. GOTTO:

21 Q. Okay. So as you sit here  
22 today, you can't -- you can't answer one  
23 way or the other whether you would have  
24 been surprised to learn that over 12,000

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1 times physicians and pain clinics had  
2 purchased Mallinckrodt oxycodone from a  
3 Mallinckrodt distributor who was doing  
4 business as a veterinary supply company?

5 MR. O'CONNOR: Objection.

6 THE WITNESS: That is  
7 correct. I cannot respond to  
8 that.

9 BY MR. GOTTO:

10 Q. Do you recall any time  
11 having an understanding as to who Cathy  
12 Stewart was?

13 A. I do not.

14 Q. Okay. How about Bill  
15 Ratcliff?

16 A. I do not.

17 Q. How about Karen Harper?

18 A. I do. I remember Karen  
19 Harper.

20 Q. Who do you remember Karen  
21 Harper to be?

22 A. Karen was part of the  
23 financial organization, and she had  
24 responsibility for chargebacks and

<p style="text-align: right;">Page 154</p> <p>1 working with that team.</p> <p>2 Q. Okay. Do you know if she</p> <p>3 had any responsibility for DEA</p> <p>4 compliance?</p> <p>5 A. I do not recall.</p> <p>6 Q. Do you know if she had any</p> <p>7 responsibility with respect to suspicious</p> <p>8 order monitoring?</p> <p>9 A. I do not recall.</p> <p>10 (Document marked for</p> <p>11 identification as Exhibit</p> <p>12 Mallinckrodt-O'Neill-10.)</p> <p>13 BY MR. GOTTO:</p> <p>14 Q. I'll hand you what we've</p> <p>15 marked as Exhibit 10, which is an e-mail</p> <p>16 thread from back in 2008. I realize this</p> <p>17 predates your time at Mallinckrodt. And</p> <p>18 feel free to take a look at Exhibit 10.</p> <p>19 And you can tell me if you are familiar</p> <p>20 with those e-mails.</p> <p>21 A. I have never seen this</p> <p>22 document before.</p> <p>23 Q. Okay. If you look on the</p> <p>24 second page of Exhibit 10 you'll see an</p>	<p style="text-align: right;">Page 156</p> <p>1 this litigation. They were both</p> <p>2 Mallinckrodt employees at this time, and</p> <p>3 Mr. Ratliff had responsibility for</p> <p>4 security. Ms. Harper, you've already</p> <p>5 told -- said that you're familiar with</p> <p>6 Ms. Harper. So I won't characterize her</p> <p>7 role for you.</p> <p>8 The -- just to give you some</p> <p>9 context, just to at least my</p> <p>10 understanding of who these folks are.</p> <p>11 The e-mail from Ms. Stewart,</p> <p>12 the May 20, 2008, e-mail says, "FYI, the</p> <p>13 customer service reps all state that</p> <p>14 Victor will tell them anything they want</p> <p>15 to hear just so he can get the sale."</p> <p>16 And I will tell you Ms. Stewart has</p> <p>17 confirmed, the Victor she's referring to</p> <p>18 in that e-mail is Mr. Borelli.</p> <p>19 And again understanding this</p> <p>20 e-mail predates your time at</p> <p>21 Mallinckrodt.</p> <p>22 But if during your tenure</p> <p>23 when you had responsibility of overseeing</p> <p>24 the opioids or the generics business for</p>
<p style="text-align: right;">Page 155</p> <p>1 e-mail from a Victor Borelli. I think</p> <p>2 you testified earlier today that you were</p> <p>3 not familiar with who Mr. Borelli is,</p> <p>4 correct?</p> <p>5 A. That is correct.</p> <p>6 Q. Okay. And you'll see that</p> <p>7 the e-mail indicates that Mr. Borelli was</p> <p>8 a national account manager. Does seeing</p> <p>9 that refresh your recollection in any</p> <p>10 regard with respect to who Mr. Borelli</p> <p>11 is?</p> <p>12 A. Not at all.</p> <p>13 Q. Okay. If you turn back to</p> <p>14 the first page of Exhibit 10, the last</p> <p>15 e-mail, the one at the top of the first</p> <p>16 page from Cathy Stewart -- and I will</p> <p>17 tell you, Ms. Stewart has given a</p> <p>18 deposition in this litigation. I believe</p> <p>19 at this time she's testified that she was</p> <p>20 the customer service director.</p> <p>21 MR. O'CONNOR: Objection.</p> <p>22 BY MR. GOTTO:</p> <p>23 Q. And Mr. -- Mr. Ratliff and</p> <p>24 Ms. Harper have also given depositions in</p>	<p style="text-align: right;">Page 157</p> <p>1 Mallinckrodt, if you had learned that the</p> <p>2 customer service director had reported</p> <p>3 that one of the -- that her service reps</p> <p>4 stated that one of the national account</p> <p>5 managers would tell them anything they</p> <p>6 want to hear just so he can get a sale,</p> <p>7 would that have concerned you?</p> <p>8 MR. O'CONNOR: Objection.</p> <p>9 THE WITNESS: So again, this</p> <p>10 document predates me by five and a</p> <p>11 half years, so it's hard for me to</p> <p>12 say anything on it as far as</p> <p>13 speculation, because I was not</p> <p>14 even in the organization. So it's</p> <p>15 really hard for me to react to.</p> <p>16 BY MR. GOTTO:</p> <p>17 Q. Sure. I understand this</p> <p>18 predates you. And I'm asking you a</p> <p>19 hypothetical and just kind of putting</p> <p>20 this e-mail in front of you as sort of</p> <p>21 the predicate for the hypothetical. And</p> <p>22 that is, if -- during your time when --</p> <p>23 on your watch at Mallinckrodt for the</p> <p>24 generics business, if this e-mail was</p>

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1 dated 2013 or 2014, rather than 2008, and  
 2 it had come to your attention that the  
 3 customer service director had so --  
 4 made -- passed along this information  
 5 with respect to a national account  
 6 manager, would that have caused you  
 7 concern?

8 MR. O'CONNOR: Objection.

9 THE WITNESS: Again, you're  
 10 asking me to speculate on  
 11 something that I did not -- that I  
 12 have no recollection of anything  
 13 like this happening when I was  
 14 there. So I can't even make a  
 15 comment on that.

16 BY MR. GOTTO:

17 Q. Okay. So as we sit here  
 18 today, you're unable to give me an answer  
 19 as to whether you had received an e-mail  
 20 similar to Ms. Stewart's e-mail from 2008  
 21 in 2014, say, reporting what she reports  
 22 with respect to Mr. Borelli, as you sit  
 23 here today, you can't answer my question  
 24 as to whether that would have caused you

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1 concern?

2 MR. O'CONNOR: Objection.

3 THE WITNESS: Again, it's  
 4 speculation of what might have  
 5 happened, not what did happen. So  
 6 it's hard for me to answer that  
 7 question.

8 BY MR. GOTTO:

9 Q. Okay. So this sort of  
 10 thing, assuming that the customer service  
 11 director's reports had told her that a  
 12 national account manager would tell them  
 13 anything they want to hear -- they want  
 14 to hear just to get a sale, that's not  
 15 the sort of thing that's so out of bounds  
 16 for you that you can -- you can answer  
 17 that hypothetically, and if you don't  
 18 want to do it, you would have been  
 19 concerned about it?

20 MR. O'CONNOR: Objection.

21 THE WITNESS: Again, the  
 22 issue -- the issue comes down to  
 23 speculating on something that  
 24 might or might not have occurred.

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1 This is something that it's hard  
 2 for me to react to based on where  
 3 we are today.

4 Q. Okay. Let's look at another  
 5 document.

6 (Document marked for  
 7 identification as Exhibit  
 8 Mallinckrodt-O'Neill-11.)

9 BY MR. GOTTO:

10 Q. Hand you what we've marked  
 11 as -- oh, here's the other one.

12 I'll hand you what we've  
 13 marked as Exhibit 11. And this is  
 14 another e-mail thread that predates your  
 15 time at Mallinckrodt. But please take a  
 16 look at those e-mails and tell me if  
 17 you're familiar with them.

18 And for the record, this is  
 19 Bates MNK-T1\_0000559532, and Exhibit 10  
 20 was -- began at Bates MNK-T1\_0003028219.

21 A. I've never seen this before.

22 Q. Okay, fair enough.

23 We've discussed in the  
 24 context of the last exhibit Mr. --

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1 Mr. Borelli and his position as national  
 2 account manager.

3 The -- the 1/27/09 e-mail  
 4 that's the latest e-mail that's in  
 5 Exhibit 11 is from Mr. Borelli to a  
 6 Steven Cochran at keysourcemedical.com.  
 7 Do you know who Mr. Cochran is?

8 A. I do not.

9 Q. Do you know who KeySource  
 10 Medical is?

11 A. I do not.

12 Q. Did -- do you know if that  
 13 was a Mallinckrodt customer at any point?

14 A. I do not.

15 Q. Okay. Assume if you --  
 16 assume with me if you will that KeySource  
 17 was a Mallinckrodt customer at the time  
 18 of this -- of this e-mail.

19 And you'll see in the --  
 20 Mr. Cochran's January 27th, '09 e-mail to  
 21 Mr. Borelli referring to oxy 30s, it  
 22 says, "Keep them coming. Flying out of  
 23 here. It's like people are addicted to  
 24 these things or something. Oh wait,



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1 people are."

2 And Mr. Borelli's response,  
3 "Just like Doritos, keep eating. We'll  
4 make more."

5 Again, if -- if these  
6 e-mails were dated during your tenure as,  
7 when you had responsibility for the  
8 generics business, and it had come to  
9 your attention that a national account  
10 manager had this e-mail exchange with a  
11 customer of Mallinckrodt's, would --  
12 would that have caused you concern?

13 MR. O'CONNOR: Objection.

14 THE WITNESS: Again, we're  
15 dealing with hypotheticals, right.  
16 So this -- this -- this is  
17 something that happened long  
18 before I was here. I'm not even  
19 familiar with who these people  
20 are.

21 The company always had a  
22 very direct conversation about how  
23 to manage our customers  
24 appropriately with order

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1 monitoring, the other things like  
2 we spoke about earlier.

3 It's hard for me to react,  
4 whether I would -- how I would say  
5 to this, because I'd never saw  
6 anything like this.

7 BY MR. GOTTO:

8 Q. Sure. Appreciate that  
9 you -- that you never saw any -- anything  
10 like this. And again I'm asking the  
11 question in a hypothetical because of  
12 that. And -- and sort of trying to  
13 put -- put this e-mail exchange in the  
14 time frame that would be pertinent to  
15 your responsibilities at Mallinckrodt.

16 Fair to say that you would  
17 have viewed equating oxycodone 30s to  
18 Doritos as being something that was  
19 inappropriate for a Mallinckrodt national  
20 account manager to be doing?

21 MR. O'CONNOR: Objection.

22 THE WITNESS: Again, I -- we  
23 treat our -- our drugs as  
24 important options for patients,

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1 and they should be treated like  
2 that across the board.

3 It's hard for me to -- to  
4 react to this. Again, it's not --  
5 not anything I'm even familiar  
6 with.

7 BY MR. GOTTO:

8 Q. I mean, you'd agree with me  
9 that selling -- manufacturing and selling  
10 oxycodone is a serious business, right?

11 MR. O'CONNOR: Objection.

12 THE WITNESS: What we do on  
13 our business is always serious  
14 business.

15 BY MR. GOTTO:

16 Q. Okay. And -- and it needs  
17 to be treated that way by Mallinckrodt  
18 personnel, correct?

19 MR. O'CONNOR: Objection.

20 THE WITNESS: Again, this  
21 is -- predates me. It's hard for  
22 me to say whether -- what -- what  
23 context this is even in.

24 BY MR. GOTTO:

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1 Q. Sure. Wholly apart from  
2 yourself, you can put Exhibit 11 aside  
3 for a moment, just as a -- as a -- in the  
4 abstract.

5 You'd agree with me that  
6 it's important for Mallinckrodt personnel  
7 to be treating the business of  
8 manufacturing and selling narcotics as a  
9 serious business, right?

10 MR. O'CONNOR: Objection.

11 THE WITNESS: And again we  
12 have, based on everything we put  
13 in place, we talked about earlier  
14 the order monitoring, the way the  
15 company monitors things. Yes,  
16 these are always treated as  
17 serious.

18 BY MR. GOTTO:

19 Q. And it's important for a  
20 company that's like Mallinckrodt that's  
21 engaged in manufacturing and selling  
22 prescription narcotics to -- to foster a  
23 corporate culture that accords that  
24 business the appropriate degree of

<p style="text-align: right;">Page 166</p> <p>1 seriousness and gravity, right?</p> <p>2 MR. O'CONNOR: Objection.</p> <p>3 THE WITNESS: Our corporate</p> <p>4 culture takes everything we do</p> <p>5 extremely serious, and full</p> <p>6 compliance with all regulatory and</p> <p>7 legal situations that we deal</p> <p>8 with.</p> <p>9 BY MR. GOTTO:</p> <p>10 Q. Okay. I'd like to show you</p> <p>11 a -- a video that's been produced in the</p> <p>12 litigation. I had written somewhere the</p> <p>13 Bates range. I misplaced that.</p> <p>14 MR. GOTTO:</p> <p>15 MNK-T1_007033463.</p> <p>16 If we can show the video,</p> <p>17 please.</p> <p>18 (Video playback.)</p> <p>19 "She is the life of parties</p> <p>20 she has never attended. She has</p> <p>21 13 medical degrees and a masters</p> <p>22 in the culinary arts. She has</p> <p>23 lunch catered for rep leaders and</p> <p>24 she buys. Every time she writes a</p>	<p style="text-align: right;">Page 168</p> <p>1 Mallinckrodt?</p> <p>2 A. I do not know.</p> <p>3 Q. If during the time you were</p> <p>4 at Mallinckrodt you had been aware that</p> <p>5 that video had been produced by</p> <p>6 Mallinckrodt for any purpose, would that</p> <p>7 have caused you any concern?</p> <p>8 MR. O'CONNOR: Objection.</p> <p>9 THE WITNESS: Again, I</p> <p>10 don't -- I don't know anything</p> <p>11 about the -- the video. It's hard</p> <p>12 for me to speculate on it.</p> <p>13 But I'm not aware of it at</p> <p>14 all.</p> <p>15 BY MR. GOTTO:</p> <p>16 Q. Do you think that that video</p> <p>17 fosters the kind of serious corporate</p> <p>18 culture that takes into account the --</p> <p>19 the gravity of the nature of the business</p> <p>20 of -- of manufacture and sale of</p> <p>21 prescription narcotics that would be</p> <p>22 appropriate for a company like</p> <p>23 Mallinckrodt?</p> <p>24 MR. O'CONNOR: Objection.</p>
<p style="text-align: right;">Page 167</p> <p>1 prescription, an angel gets its</p> <p>2 wings. She is the most</p> <p>3 interesting physician in the</p> <p>4 world.</p> <p>5 "I don't always write</p> <p>6 Exalgo, but when I do I make sure</p> <p>7 the patients on the right dose.</p> <p>8 "Stay focused, my friends."</p> <p>9 BY MR. GOTTO:</p> <p>10 Q. Have you ever seen that</p> <p>11 video before?</p> <p>12 A. I have not.</p> <p>13 Q. Okay. Do you know when it</p> <p>14 was produced?</p> <p>15 A. I do not.</p> <p>16 Q. And I think you testified</p> <p>17 earlier today that when you joined</p> <p>18 Mallinckrodt, Exalgo was sort of in -- in</p> <p>19 the last stages of -- of being a</p> <p>20 Mallinckrodt product; is that correct?</p> <p>21 A. That's correct.</p> <p>22 Q. Okay. Do you know if that</p> <p>23 video was -- was in use at Mallinckrodt</p> <p>24 in any way during the time you were at</p>	<p style="text-align: right;">Page 169</p> <p>1 THE WITNESS: Again, not</p> <p>2 seeing it in its context, not</p> <p>3 having seen it before, it's hard</p> <p>4 for me to make any judgment calls</p> <p>5 on that.</p> <p>6 BY MR. GOTTO:</p> <p>7 Q. Okay. So just based on what</p> <p>8 we just saw on the screen, you feel like</p> <p>9 you can't make a judgment on that?</p> <p>10 MR. O'CONNOR: Objection.</p> <p>11 BY MR. GOTTO:</p> <p>12 Q. Is that fair?</p> <p>13 MR. O'CONNOR: Objection.</p> <p>14 THE WITNESS: That's</p> <p>15 correct, yes.</p> <p>16 MR. GOTTO: Okay. One</p> <p>17 moment. We're getting a document</p> <p>18 here.</p> <p>19 (Document marked for</p> <p>20 identification as Exhibit</p> <p>21 Mallinckrodt-O'Neill-12.)</p> <p>22 BY MR. GOTTO:</p> <p>23 Q. I'll hand you what we marked</p> <p>24 as Exhibit 12, another document that's</p>

<p style="text-align: right;">Page 170</p> <p>1 been produced in the litigation.</p> <p>2 MR. CHALOS: If you need an</p> <p>3 extra copy.</p> <p>4 MR. GOTTO: Just for the</p> <p>5 table.</p> <p>6 BY MR. GOTTO:</p> <p>7 Q. It begins at</p> <p>8 MNK-T1_0002734988, skips a few pages,</p> <p>9 which I believe were withheld in</p> <p>10 production, and resumes at</p> <p>11 MNK-T1_0002734994 and concludes on Bates</p> <p>12 ending in 5013.</p> <p>13 Take a look through that, if</p> <p>14 you would, please, Mr. O'Neill, and tell</p> <p>15 me if you're familiar with that document.</p> <p>16 A. So I've never seen the</p> <p>17 document before. I just need to take the</p> <p>18 time to go through it.</p> <p>19 Q. Sure.</p> <p>20 A. And it predates my time at</p> <p>21 the company. So...</p> <p>22 Okay.</p> <p>23 Q. Now, that you've looked at</p> <p>24 it, any familiarity with that document?</p>	<p style="text-align: right;">Page 172</p> <p>1 It's all good, man.</p> <p>2 Every day your patient come</p> <p>3 by and say they feel fine. But</p> <p>4 you see them wincing, so you know</p> <p>5 it's a lie. So you try something</p> <p>6 new cause you know that it work.</p> <p>7 But if you don't follow up,</p> <p>8 the pain it will lurk. The pain</p> <p>9 it would lurk, mon. The pain it</p> <p>10 would lurk, mon.</p> <p>11 The pain, it will lurk.</p> <p>12 When you start at the middle</p> <p>13 or you start at the top, or you</p> <p>14 start with a little, make sure you</p> <p>15 just don't stop. 'Cause your</p> <p>16 patient needs relief, mon. So do</p> <p>17 what you should.</p> <p>18 When you convert and</p> <p>19 titrate, make sure EXAAAALGOOD.</p> <p>20 EXAAAALGOOD. EXAAAALGOOD.</p> <p>21 EXAAAALGOOD. EXAAAALGOOD.</p> <p>22 You got to have the proper</p> <p>23 dose, mon. Titrate to proper</p> <p>24 dose. EXAAAALGOOD. EXAAAALGOOD.</p>
<p style="text-align: right;">Page 171</p> <p>1 A. None at all.</p> <p>2 Q. Okay. I'd like to play for</p> <p>3 you a recording that has been produced in</p> <p>4 the litigation of one of the songs that's</p> <p>5 contained in Exhibit 12. And the lyrics,</p> <p>6 if you want to follow them along, are on</p> <p>7 the page ending in Bates 35001.</p> <p>8 The song was produced at</p> <p>9 MNK-T1_0007029131.</p> <p>10 MR. GOTTO: Please play the</p> <p>11 song for us.</p> <p>12 (Song played.)</p> <p>13 SINGER: You got to have the</p> <p>14 proper dose, mon. Titrate. The</p> <p>15 proper dose.</p> <p>16 You can start at the middle.</p> <p>17 You can start at the top. You can</p> <p>18 start with very little, but that's</p> <p>19 not where you should stop.</p> <p>20 Cause your patient needs</p> <p>21 relief, mon.</p> <p>22 So please do what you should</p> <p>23 do. When you convert and titrate.</p> <p>24 Make sure it's EXAAAALGOOD.</p>	<p style="text-align: right;">Page 173</p> <p>1 It's EXAAAALGOOD.</p> <p>2 You've got to have the</p> <p>3 proper dose, mon, the mighty</p> <p>4 converters. Shout out. You've</p> <p>5 got to have the proper dose, mon.</p> <p>6 Titrate to proper dose. Shout out</p> <p>7 to all the mighty converters.</p> <p>8 Shout out. You got to have to</p> <p>9 have a proper dose, mon. Proper</p> <p>10 dose. With EXAAAALGOOD. With</p> <p>11 EXAAAALGOOD.</p> <p>12 Shout out. The mighty</p> <p>13 converters.</p> <p>14 So make you are you are</p> <p>15 taking the proper dose. Shout</p> <p>16 out. EXAAAALGOOD. EXAAAALGOOD.</p> <p>17 EXAAAALGOOD.</p> <p>18 (End of song playback.)</p> <p>19 BY MR. GOTTO:</p> <p>20 Q. I take it you've never heard</p> <p>21 that song before?</p> <p>22 A. Never.</p> <p>23 Q. Okay. Have any idea of how</p> <p>24 it was used at Mallinckrodt at any point?</p>

<p style="text-align: right;">Page 174</p> <p>1 A. Not at all.</p> <p>2 Q. Okay. Any idea who was</p> <p>3 responsible for producing it?</p> <p>4 A. Not at all.</p> <p>5 Q. Understanding that</p> <p>6 Exhibit 12, the e-mail predates your</p> <p>7 tenure at Mallinckrodt, if during your</p> <p>8 time of responsibility for the branded</p> <p>9 business you had become aware of the song</p> <p>10 we just listened to being used by</p> <p>11 Mallinckrodt for any purpose, would that</p> <p>12 have caused you concern?</p> <p>13 MR. O'CONNOR: Objection.</p> <p>14 THE WITNESS: It's a similar</p> <p>15 situation. It predates me. I</p> <p>16 don't know anything about this.</p> <p>17 And it's hard for me to make any</p> <p>18 comments on it.</p> <p>19 BY MR. GOTTO:</p> <p>20 Q. Okay. You'd agree with me</p> <p>21 it's pretty clever, wouldn't you?</p> <p>22 MR. O'CONNOR: Objection.</p> <p>23 THE WITNESS: Again, it's</p> <p>24 something that I know nothing of.</p>	<p style="text-align: right;">Page 176</p> <p>1 A. I do know who Mike was, yes.</p> <p>2 Q. And who was Mike?</p> <p>3 A. I don't know what his role</p> <p>4 was at this point in time. When Mike</p> <p>5 worked for me, which was years later, he</p> <p>6 was my -- my chief of staff.</p> <p>7 Q. Okay. And when did he work</p> <p>8 for you as chief of staff?</p> <p>9 A. 2014, '13 through '15,</p> <p>10 something like that.</p> <p>11 Q. Okay. And it's also</p> <p>12 addressed to a Michael Wessler. Do you</p> <p>13 know who that is?</p> <p>14 A. I do know of Michael</p> <p>15 Wessler, yes.</p> <p>16 Q. Who is Michael Wessler?</p> <p>17 A. He was on the marketing team</p> <p>18 at Mallinckrodt.</p> <p>19 Q. Okay. And the e-mail is</p> <p>20 from a CJ Sloan. Do you know who that</p> <p>21 is?</p> <p>22 A. I do not.</p> <p>23 Q. Okay. You had a chance to</p> <p>24 look through Exhibit 12. And it's in the</p>
<p style="text-align: right;">Page 175</p> <p>1 BY MR. GOTTO:</p> <p>2 Q. It's certainly a stab at</p> <p>3 being clever, isn't it?</p> <p>4 MR. O'CONNOR: Objection.</p> <p>5 THE WITNESS: Again, same</p> <p>6 situation.</p> <p>7 BY MR. GOTTO:</p> <p>8 Q. The -- so as you sit here</p> <p>9 today, just reading these lyrics,</p> <p>10 listening to the song, you can't</p> <p>11 formulate a view as to how you would have</p> <p>12 reacted to it if you had learned that</p> <p>13 this was being used for any purpose at</p> <p>14 Mallinckrodt during your tenure?</p> <p>15 MR. O'CONNOR: Objection.</p> <p>16 Objection.</p> <p>17 THE WITNESS: Again, I know</p> <p>18 nothing of this. It's hard for me</p> <p>19 to react to it.</p> <p>20 BY MR. GOTTO:</p> <p>21 Q. Okay. Now, if you turn to</p> <p>22 the first page of Exhibit 12, it's the</p> <p>23 there's an e-mail from a Mike Paterson.</p> <p>24 Do you know who that was?</p>	<p style="text-align: right;">Page 177</p> <p>1 form -- the attachments to the e-mail are</p> <p>2 in the form of a sort of script for sort</p> <p>3 of a faux radio show with an announcer</p> <p>4 leading into various songs. Were you</p> <p>5 able to gather that from the time that</p> <p>6 you had to look through the exhibit?</p> <p>7 MR. O'CONNOR: Objection.</p> <p>8 THE WITNESS: Again, I'm not</p> <p>9 familiar with the document at all.</p> <p>10 All I can take it is from what</p> <p>11 I've read.</p> <p>12 BY MR. GOTTO:</p> <p>13 Q. Okay. And I will tell you</p> <p>14 that there's been produced in the</p> <p>15 litigation recordings of certain of the</p> <p>16 other songs that are -- the lyrics for</p> <p>17 which are included in Exhibit 12. I</p> <p>18 don't want to take the time today to play</p> <p>19 any of the others.</p> <p>20 The -- I do have a couple of</p> <p>21 questions for you, though. If you turn</p> <p>22 to the page ending in 4997. I'll give</p> <p>23 you a moment to get there.</p> <p>24 I'm sorry. I cited the</p>

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1 wrong page. The page ending in 5003, if  
 2 you would, please. There's a -- the  
 3 heading says "Sweet Relief Double-Blind."  
 4 And in the first paragraph under "ANNCR  
 5 Intro," there is a sentence that says,  
 6 "In fact, the famous Dr. Hale proved that  
 7 we could cut a pain score in half."

8 Do you see that sentence?

9 A. I do.

10 Q. Any understanding of what  
 11 that's referring to?

12 A. I do not --

13 Q. Are you familiar with any  
 14 double-blind studies with respect to  
 15 Exalgo indicating its ability to cut a  
 16 pain score in half?

17 A. I am not.

18 Q. Do you know if Exalgo  
 19 cutting a pain score in half was a claim  
 20 that the FDA authorized Mallinckrodt to  
 21 assert?

22 A. I do not.

23 Q. You don't have any  
 24 recollection of that, correct?

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1 A. Not at all.

2 Q. Looking at Exhibit 12  
 3 overall. And the -- the various song  
 4 lyrics that are in here along with the  
 5 scripted intros and outros for the  
 6 announcers.

7 Again, if you had learned  
 8 during your tenure at Mallinckrodt  
 9 that -- that these materials were being  
 10 used for any purpose at Mallinckrodt,  
 11 would that have caused you concern?

12 MR. O'CONNOR: Objection.

13 THE WITNESS: Again, it's  
 14 speculation and I don't -- I'm not  
 15 aware of the document. I'm not  
 16 aware how these were used. And  
 17 it's hard for me to speculate on  
 18 what my response would be.

19 BY MR. GOTTO:

20 Q. Assume for me that these --  
 21 that what Exhibit 12 reflects is a script  
 22 of a -- a recording that was made to --  
 23 to -- to portray, if you will, a radio  
 24 program that -- which an announcer would

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1 read the intro, a song would be played  
 2 where you'd see the lyrics of the song,  
 3 and then the announcer would read the  
 4 outro, and then -- and then that  
 5 recording was made available to  
 6 Mallinckrodt's sales personnel.

7 Would it have caused you any  
 8 concern if that recording was being made  
 9 available by anyone at Mallinckrodt to  
 10 the Mallinckrodt sales personnel?

11 MR. O'CONNOR: Objection.

12 THE WITNESS: So I'm -- it's  
 13 the same issue for me. This --  
 14 I've never seen this before. I'm  
 15 not aware how it was used, what it  
 16 was used for, or the issue as to  
 17 it, so it's hard for me to  
 18 speculate on any of that.

19 BY MR. GOTTO:

20 Q. Okay. And based on the  
 21 assumptions that I gave you just a moment  
 22 ago, as you sit here today, you're not --  
 23 you're not able to reach a view as to  
 24 whether that would have caused you

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1 concern?

2 MR. O'CONNOR: Objection.

3 BY MR. GOTTO:

4 Q. Is that fair?

5 A. Yes.

6 Q. That's fair?

7 A. Yes.

8 MR. GOTTO: Okay. All  
 9 right. I don't have any further  
 10 questions. Thank you very much.

11 MR. DAVISON: Shall we go  
 12 off the record?

13 THE VIDEOGRAPHER: The time  
 14 is 2:43 p.m. Off the record.

15 (Short break.)

16 THE VIDEOGRAPHER: We are  
 17 back on the record. The time is  
 18 2:53 p.m.

19 - - -

20 EXAMINATION

21 - - -

22 BY MS. HERZFELD:

23 Q. Good afternoon, Mr. O'Neill.  
 24 My name is Tricia Herzfeld, and I'm an



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1 attorney representing the Tennessee  
2 plaintiffs in the Tennessee state --  
3 state court litigation.

4 How are you doing?

5 A. Good. Good afternoon.

6 Q. Good. Very good.

7 Before we get started today,  
8 I just wanted to put our objection on the  
9 record to the incomplete document  
10 production we've received thus far from  
11 Mallinckrodt, the limited time available  
12 for our deposition, and reserving our  
13 rights to redepose this witness as we do  
14 with every deposition in this case.

15 MR. DAVISON: And  
16 Mallinckrodt disagrees with your  
17 statement of the facts. We've  
18 complied with the deposition  
19 protocol and consider this to be  
20 the final deposition to the  
21 Tennessee claims.

22 MS. HERZFELD: Okay.

23 Objection's noted.

24 BY MS. HERZFELD:

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1 THE WITNESS: There is a  
2 separate order monitoring group  
3 that is part of a different piece  
4 of the organization. I don't  
5 remember where it sits, but it's  
6 not in the commercial  
7 organization.

8 BY MS. HERZFELD:

9 Q. Okay. And do you know if  
10 there was someone on the executive  
11 committee that was overseeing  
12 responsibility for suspicious order  
13 monitoring?

14 A. I do not.

15 Q. Okay. Do you recall during  
16 any executive committee meetings ever  
17 being given any reports that had to do  
18 with suspicious order monitoring at  
19 Mallinckrodt?

20 A. I do not.

21 Q. Okay. What about during  
22 executive committee meetings, any reports  
23 on anti-diversion efforts by  
24 Mallinckrodt?

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1 Q. Mr. O'Neill, do you know  
2 anything specifically about the Tennessee  
3 state court litigation?

4 A. I do not.

5 Q. Okay. Have you heard of the  
6 Tennessee state court litigation?

7 A. I have not.

8 Q. Okay. And earlier we talked  
9 about your position as president of  
10 specialty pharmaceuticals. Do you recall  
11 that testimony?

12 A. I do.

13 Q. When you were president of  
14 specialty pharmaceuticals for  
15 Mallinckrodt, did you ever request  
16 reports about suspicious order monitoring  
17 or other anti-diversion programs?

18 A. I did not.

19 Q. Okay. Since you've been at  
20 Mallinckrodt, which person, if any, on  
21 the executive committee is responsible  
22 for overseeing Mallinckrodt's suspicious  
23 order monitoring anti-diversion programs?

24 MR. O'CONNOR: Objection.

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1 A. I do not.

2 Q. Okay. What about on any of  
3 the other committees for which you sit,  
4 did you ever recall any anti-diversion  
5 efforts being discussed at those  
6 committee meetings?

7 A. I do not.

8 Q. Okay. Okay. During your  
9 time as a member on the executive  
10 committee, do you recall ever engaging in  
11 a conversation where the topic of  
12 discussion was whether Mallinckrodt's  
13 suspicious order monitoring program was  
14 effective?

15 A. I do not.

16 Q. Do you know what metrics  
17 were used to make a determination of  
18 whether Mallinckrodt's suspicious order  
19 monitoring program was effective?

20 A. I do not.

21 Q. Do you know anything about  
22 attempts to obtain a patent on  
23 Mallinckrodt's suspicious order  
24 monitoring program?

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1 A. I do not.  
 2 Q. Okay. Have you ever been  
 3 involved in a discussion of the costs of  
 4 Mallinckrodt's suspicious order  
 5 monitoring programs?  
 6 A. I have not.  
 7 Q. Okay. What about any  
 8 anti-diversion programs in general by  
 9 Mallinckrodt?  
 10 A. I have not.  
 11 Q. Okay. During your time on  
 12 the executive committee, has the  
 13 executive committee ever made a  
 14 recommendation regarding suspicious order  
 15 monitoring programs at Mallinckrodt?  
 16 A. I do not know.  
 17 Q. Okay. And what about  
 18 anti-diversion programs?  
 19 A. I do not know.  
 20 Q. Okay. We talked a little  
 21 bit earlier about your knowledge of the  
 22 opioid abuse epidemic in this country.  
 23 Do you recall that testimony?  
 24 A. I do.

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1 Q. Okay. Would you agree that  
 2 the opioid epidemic is more severe in  
 3 some areas of the country than in others?  
 4 MR. O'CONNOR: Objection.  
 5 THE WITNESS: I don't know  
 6 the details of the -- of the  
 7 epidemic, per se.  
 8 BY MS. HERZFELD:  
 9 Q. Okay. Have you ever heard  
 10 that the opioid epidemic has hit the  
 11 Appalachian area of the country harder  
 12 than other areas of the country?  
 13 A. I'm aware of the -- of the  
 14 challenge. And I know that the  
 15 Appalachian has been part of it. But I  
 16 don't know all the details behind it.  
 17 Q. Okay. And do you consider  
 18 Tennessee to be part of Appalachia?  
 19 A. I don't know.  
 20 Q. Why don't you tell me what  
 21 you consider to be part of Appalachia.  
 22 A. Based on the Appalachian  
 23 Mountains, West Virginia, that area.  
 24 That's as much as I know.

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1 Q. Okay. So you'd say West  
 2 Virginia?  
 3 A. Again, it's -- I always tied  
 4 it to the west -- to the Appalachian  
 5 Mountains, that -- that area. So West  
 6 Virginia, that whole area of the central  
 7 part of the state -- of the country.  
 8 Q. Okay. And if those  
 9 mountains go into East Tennessee, would  
 10 you consider East Tennessee part of  
 11 Appalachia?  
 12 MR. O'CONNOR: Objection.  
 13 THE WITNESS: Yeah, I  
 14 don't -- I don't really define  
 15 what it is. But, yeah, if it  
 16 does, I would guess so.  
 17 BY MS. HERZFELD:  
 18 Q. Okay. You are aware that  
 19 some areas of the country have higher  
 20 addiction rates than others; is that  
 21 correct?  
 22 A. I am aware of the -- of the  
 23 higher addiction rates in certain areas  
 24 than others, yes.

Page 189

1 Q. Okay. And is one of those  
 2 areas the Appalachian region of the  
 3 country?  
 4 A. I don't know all the details  
 5 behind it. But it's my understanding  
 6 that it's a big problem there. It's a  
 7 challenge there, yes.  
 8 Q. Okay. And what about  
 9 overdose rates? Is your understanding  
 10 that overdose rates to opioids are a  
 11 particular problem in Appalachia?  
 12 A. I don't know.  
 13 Q. Okay. What about crime  
 14 rates related to opioids? Do you know  
 15 about that in Appalachia?  
 16 A. I do not.  
 17 Q. Okay. What about neonatal  
 18 abstinence syndrome? Have you heard of  
 19 that?  
 20 A. I have not.  
 21 Q. Have you heard of babies  
 22 being dependent on opioids?  
 23 A. I have not.  
 24 Q. In all your time at

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1 Mallinckrodt, you've never heard of  
2 babies being born dependent on opioids?

3 A. I have not.

4 Q. Okay. So that wasn't  
5 discussed at any time in your position?

6 A. It was not.

7 MR. O'CONNOR: Objection.

8 BY MS. HERZFELD:

9 Q. Have you ever heard anyone  
10 at Mallinckrodt express a concern about  
11 the opioid epidemic in Appalachia?

12 MR. O'CONNOR: Objection.

13 THE WITNESS: I have not.

14 BY MS. HERZFELD:

15 Q. Would you agree that there  
16 are certain characteristics that can  
17 place a geographic area at a greater risk  
18 of abuse and diversion of opioids?

19 MR. O'CONNOR: Objection.

20 THE WITNESS: I don't know.

21 BY MS. HERZFELD:

22 Q. Have you had any training  
23 regarding the diversion of opioids?

24 A. I have not.

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1 Q. Do you know if economic  
2 factors can be an indicator of potential  
3 abuse of opioids?

4 MR. O'CONNOR: Objection.

5 THE WITNESS: I do not.

6 BY MS. HERZFELD:

7 Q. Okay. What about economic  
8 factors being a particular characteristic  
9 of diversion of opioids?

10 MR. O'CONNOR: Objection.

11 THE WITNESS: I do not.

12 BY MS. HERZFELD:

13 Q. Okay. Do you know if there  
14 is a linkage between the poverty rate of  
15 a particular area and the use of opioids?

16 MR. O'CONNOR: Objection.

17 THE WITNESS: I do not.

18 BY MS. HERZFELD:

19 Q. Okay. What about education  
20 rate? Are you aware that there's a  
21 link -- if there is a link between  
22 education rates and the abuse and  
23 diversion of opioids?

24 A. I do not.

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1 Q. Okay. When you became  
2 president of specialty sales at  
3 Mallinckrodt in 2013, was Mallinckrodt  
4 involved in attempting to expand the size  
5 of the opioid market?

6 A. I don't recall.

7 Q. Okay. So when you took over  
8 that job, you don't know if you were  
9 supposed to be expanding the market  
10 there?

11 A. Again, I don't recall that  
12 the point in time what the -- what the  
13 group was. I had -- remember I had two  
14 pieces of the business. The branded  
15 piece and the generic piece. Walt ran  
16 the generic piece. My role was to really  
17 focus on the branded piece of the  
18 business.

19 Q. Okay. And so for either  
20 side that you just -- you just talked  
21 about, having the both sides, do you know  
22 if the goal on either of those sides was  
23 to expand the market for opioids?

24 A. I do not.

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1 Q. Okay. Do you know if at any  
2 point during your tenure at Mallinckrodt  
3 you've been involved in the performance  
4 of any sort of assessment to determine  
5 whether the opioid market is too large?

6 A. I have not.

7 Q. During your tenure at  
8 Mallinckrodt, have you ever been involved  
9 in any discussions to determine whether  
10 there were too many opioids being  
11 prescribed as a whole?

12 A. I have not.

13 Q. What about too many opioids  
14 being prescribed to a particular region?

15 A. I have not.

16 Q. Okay. Have you ever heard  
17 of Mallinckrodt evaluating whether abuse  
18 deterrent technologies would stop the  
19 opioid market from shrinking?

20 A. I have not -- no, I'm  
21 familiar with abuse deterrence  
22 technologies with the conversation that  
23 we had on Xartemis. But no, not in that  
24 context.

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1 Q. Okay. Would you agree that  
2 per capita, opioid prescribing rates are  
3 linked to certain outcomes?  
4 A. I don't know the answer to  
5 that.  
6 MR. O'CONNOR: Objection.  
7 Objection.  
8 BY MS. HERZFELD:  
9 Q. Okay. And what about opioid  
10 per capita prescribing rates being linked  
11 to overdoses.  
12 MR. O'CONNOR: Objection.  
13 BY MS. HERZFELD:  
14 Q. Are you aware of that  
15 information?  
16 MR. O'CONNOR: Objection.  
17 THE WITNESS: I am not.  
18 BY MS. HERZFELD:  
19 Q. Okay. What about per capita  
20 opioid prescribing rates being linked to  
21 substance abuse treatment admissions?  
22 Are you aware of that linkage?  
23 MR. O'CONNOR: Objection.  
24 THE WITNESS: I am not.

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1 BY MS. HERZFELD:  
2 Q. Would you agree that the  
3 availability of opioids is linked to the  
4 abuse and diversion of opioids?  
5 MR. O'CONNOR: Objection.  
6 THE WITNESS: I can't -- I  
7 don't know the answer to that.  
8 BY MS. HERZFELD:  
9 Q. Do you know anything about  
10 the abuse or diversion of opioids?  
11 A. I do not.  
12 Q. Since you've been at  
13 Mallinckrodt, has anyone at Mallinckrodt  
14 to your knowledge ever considered  
15 altering sales practices based on the  
16 severity of the opioid epidemic in a  
17 specific area?  
18 A. I don't know.  
19 Q. Have you ever been made  
20 aware of or involved in any conversations  
21 about detailing physicians in a specific  
22 area less, given the opioid epidemic  
23 affecting that area?  
24 A. I do not.

Page 196

1 Q. Have you ever been involved  
2 in discussions about targeting fewer  
3 physicians in a certain area where the  
4 opioid epidemic may be particularly  
5 severe?  
6 A. I have not.  
7 Q. Okay. Have you ever been  
8 involved in any conversations about  
9 restricting the number of opioids  
10 distributors can ship to a particular  
11 geographic area?  
12 A. I have not.  
13 Q. What information do you know  
14 about providing sales force training on  
15 recognizing the signs of abuse and  
16 diversion by prescribers and at  
17 pharmacies?  
18 A. I don't know.  
19 Q. You weren't aware of any --  
20 A. I was not.  
21 Q. Okay. Do you know if anyone  
22 has ever suggested any of those measures,  
23 training the sales force to recognize  
24 signs of abuse and diversion?

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1 A. I do not.  
2 Q. Do you know if anyone ever  
3 talked at Mallinckrodt to your knowledge  
4 about restricting sales techniques or  
5 sales practices in the State of  
6 Tennessee?  
7 A. I do not.  
8 Q. Okay. What about in  
9 Appalachia generally?  
10 A. I do not.  
11 Q. Okay. Do you know that  
12 Mallinckrodt previously restricted sales  
13 in the State of Florida?  
14 A. I do not.  
15 Q. When you were a member of  
16 the executive committee, was there ever  
17 any discussion about the opioid epidemic  
18 in Appalachia?  
19 A. No.  
20 Q. Okay. What about Tennessee?  
21 A. Not that I recall.  
22 Q. Okay. What about any of the  
23 other committees on which you served?  
24 A. Not that I recall.

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1 (Document marked for  
2 identification as Exhibit  
3 Mallinckrodt-O'Neill-13.)  
4 BY MS. HERZFELD:  
5 Q. I'm going to hand you what  
6 we're going to mark as Plaintiffs'  
7 Exhibit 13. For those on the phone, it's  
8 MNK-T1\_0007257169 through 7172.  
9 MR. O'CONNOR: Do you have  
10 another copy? Do you have a copy?  
11 MS. HERZFELD: I have all  
12 sorts. There you go.  
13 MR. O'CONNOR: Thank you.  
14 BY MS. HERZFELD:  
15 Q. Let me know when you've had  
16 an opportunity to read through.  
17 A. Okay.  
18 Q. Are you finished reading it?  
19 A. I am.  
20 Q. Okay. And do you recognize  
21 this document?  
22 A. I don't recall seeing it  
23 before.  
24 Q. Okay. Is it an e-mail that

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1 was sent from Nancy Stauder to you?  
2 Nancy Stauder, I guess. I see your name  
3 on the third line of the "to."  
4 A. Yes, I'm on the list.  
5 Q. Okay. And who is Nancy  
6 Stauder?  
7 A. Nancy Stauder, she is a  
8 member of our communications team.  
9 Q. Okay. And do you know -- do  
10 you know her personally?  
11 A. I do.  
12 Q. Okay. And it was sent on  
13 October 9, 2017; is that correct?  
14 A. That's what the document  
15 says.  
16 Q. Okay. And it was sent to  
17 your e-mail address. Do you believe that  
18 you received this document in the  
19 ordinary course of business at  
20 Mallinckrodt?  
21 MR. O'CONNOR: Objection.  
22 THE WITNESS: It's hard for  
23 me -- I -- I know this is an  
24 e-mail that came to me. That's

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1 the most I can say.  
2 BY MS. HERZFELD:  
3 Q. Okay. Very good.  
4 In looking at this e-mail,  
5 it's forwarding a link and an article  
6 from a Today show segment; is that  
7 correct?  
8 A. Based on the e-mail that I  
9 just read, yes, that's correct.  
10 Q. Okay. And did you view the  
11 video of the Today show -- Today show  
12 clip?  
13 A. I don't recall.  
14 Q. Okay. And did you -- before  
15 now, did you read the article that was  
16 associated with this e-mail?  
17 A. I don't recall.  
18 Q. Okay. And the e-mail  
19 article here seems to talk about what was  
20 shown in the Today show clip; is that  
21 right?  
22 A. Based on my reading of the  
23 e-mail right now, that's what it seems,  
24 yes.

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1 Q. Okay. And it's talking a  
2 bit about babies that are born dependent  
3 on opioids; is that right?  
4 A. Based on my reading of the  
5 document right now, yes.  
6 Q. Okay. And before when we  
7 talked, you said you didn't know about  
8 babies being born dependent on opioids.  
9 So can I take from that that  
10 you hadn't read this article before we  
11 sat here today?  
12 MR. O'CONNOR: Objection.  
13 THE WITNESS: I can't  
14 speculate. It's hard for me to  
15 say. I -- I may have read it, but  
16 time goes by. There's lots of  
17 things that I read, so it's hard  
18 for me to remember.  
19 BY MS. HERZFELD:  
20 Q. Okay. Well, I'll submit to  
21 you the video that went along with this,  
22 this piece on NBC News for the Today show  
23 has a bit of video with a baby screaming  
24 on -- and wincing from detoxing from



<p style="text-align: right;">Page 202</p> <p>1 opioids.</p> <p>2 Do you recall seeing that at</p> <p>3 all?</p> <p>4 MR. O'CONNOR: Objection.</p> <p>5 THE WITNESS: I do not.</p> <p>6 BY MS. HERZFELD:</p> <p>7 Q. Okay. Okay. And after you</p> <p>8 received this e-mail, were you aware of</p> <p>9 any discussions about the neonatal</p> <p>10 abstinence issue in Tennessee that's</p> <p>11 referenced in this article?</p> <p>12 A. I don't recall.</p> <p>13 Q. And Mallinckrodt, to your</p> <p>14 knowledge, continued selling drugs that</p> <p>15 were being shipped into Tennessee; is</p> <p>16 that correct?</p> <p>17 MR. O'CONNOR: Objection.</p> <p>18 THE WITNESS: We continued</p> <p>19 to sell products at a national</p> <p>20 level. What went into Tennessee,</p> <p>21 it's hard for me to say.</p> <p>22 BY MS. HERZFELD:</p> <p>23 Q. Okay. And so when you say</p> <p>24 you shipped products at a national level,</p>	<p style="text-align: right;">Page 204</p> <p>1 sit here today, you're telling me you</p> <p>2 don't know if Mallinckrodt opioids were</p> <p>3 sent to Tennessee after October 9, 2017,</p> <p>4 is that your testimony?</p> <p>5 MR. O'CONNOR: Objection.</p> <p>6 THE WITNESS: Again, I was</p> <p>7 not involved in the business. I</p> <p>8 don't know how the products were</p> <p>9 shipped at that point in time. I</p> <p>10 don't -- I don't know the details.</p> <p>11 BY MS. HERZFELD:</p> <p>12 Q. Okay. You weren't involved</p> <p>13 in which business?</p> <p>14 A. The generic business at this</p> <p>15 point.</p> <p>16 Q. Okay. And what about the</p> <p>17 branded business?</p> <p>18 A. We were not -- we didn't</p> <p>19 have any opioids in the portfolio that --</p> <p>20 Q. I see. I see the</p> <p>21 distinction that you're making. Okay.</p> <p>22 Very good.</p> <p>23 Okay. And after you</p> <p>24 received this e-mail, do you know if</p>
<p style="text-align: right;">Page 203</p> <p>1 that would include opioid products; is</p> <p>2 that right?</p> <p>3 A. Our products were shipped</p> <p>4 through distributors nationally,</p> <p>5 including those products, yes.</p> <p>6 Q. Okay. Including opioid</p> <p>7 products. And so when they were shipped</p> <p>8 nationally, there was no restriction to</p> <p>9 keep them from Tennessee; is that</p> <p>10 correct?</p> <p>11 A. I don't know.</p> <p>12 Q. Okay. And if there were</p> <p>13 documents within Mallinckrodt's</p> <p>14 possession that talks about the number of</p> <p>15 Mallinckrodt opioids that made it into</p> <p>16 Tennessee after October 9, 2017, do you</p> <p>17 have any reason to think that they are</p> <p>18 incorrect?</p> <p>19 MR. O'CONNOR: Objection.</p> <p>20 THE WITNESS: Again, I don't</p> <p>21 know anything about any of those</p> <p>22 documents.</p> <p>23 BY MS. HERZFELD:</p> <p>24 Q. Okay. So you're -- as you</p>	<p style="text-align: right;">Page 205</p> <p>1 Mallinckrodt did anything in response to</p> <p>2 the neonatal abstinence syndrome issue in</p> <p>3 Tennessee?</p> <p>4 MR. O'CONNOR: Objection.</p> <p>5 THE WITNESS: I do not.</p> <p>6 BY MS. HERZFELD:</p> <p>7 Q. Okay. Is it concerning to</p> <p>8 you that there are babies born dependent</p> <p>9 on opioids?</p> <p>10 MR. O'CONNOR: Objection.</p> <p>11 THE WITNESS: I feel</p> <p>12 terrible reading it. And I think</p> <p>13 it's -- it's a terrible thing.</p> <p>14 MS. HERZFELD: Okay. Okay.</p> <p>15 (Document marked for</p> <p>16 identification as Exhibit</p> <p>17 O'Neill-14.)</p> <p>18 BY MS. HERZFELD:</p> <p>19 Q. Let me hand you what we'll</p> <p>20 mark as Exhibit 14. MNK-T1_0008396589</p> <p>21 through -- through 6590 with an</p> <p>22 attachment that is not Bates stamped.</p> <p>23 Okay. I've just handed you</p> <p>24 a document, Mr. O'Neill. If you'll look</p>

<p style="text-align: right;">Page 206</p> <p>1 with me on the first page please of this 2 exhibit, 14. 3 It's an e-mail sent from you 4 to Sue Eshbaugh dated October 29, 2013; 5 is that correct? 6 A. That is. 7 Q. Okay. And in this e-mail 8 you ask if she can bring you a hardcopy 9 of an attached presentation for an update 10 of that date at 2:00 p.m.; is that right? 11 A. That's what the e-mail says. 12 Q. Okay. And who is Sue 13 Eshbaugh? 14 A. At that point she was my 15 assistant. 16 Q. Okay. And this was an 17 e-mail you had originally received from 18 Terry Terifay; is that correct? 19 A. That's what the document 20 says, yes. 21 Q. Okay. Do you have any 22 reason to think this document isn't 23 authentic? 24 A. The document is what it is,</p>	<p style="text-align: right;">Page 208</p> <p>1 A. I do. 2 Q. Okay. Okay. And so the 3 title of this document is, "Group 4 Practice, managed care access and 5 business rules were utilized to define 6 and place reps in territories. Review 7 and input from field sales creates buy-in 8 and ownership." 9 Did I read that correctly? 10 A. You did. 11 Q. Okay. And then down here on 12 the left-hand area it contains what it 13 calls a heat map scenario. Do you see 14 that? 15 A. I do. 16 Q. Okay. And it says that it 17 "depicts the total market" and then it 18 has little asterisk there, "for products 19 including hydro APAP, oxy APAP, Oxy ER, 20 Oxy IR, Opana IR, Nucynta" -- I'm not 21 sure how to say that -- "Nucynta and 22 Nucynta ER." 23 Do you see that? 24 A. I do.</p>
<p style="text-align: right;">Page 207</p> <p>1 so... 2 Q. Okay. And it was sent from 3 your e-mail address at Mallinckrodt; is 4 that right? 5 MR. O'CONNOR: Objection. 6 THE WITNESS: That's what 7 the document says, yes. 8 BY MS. HERZFELD: 9 Q. Okay. Okay. And do you 10 recall this e-mail at all? 11 A. I do not. 12 Q. Okay. So switching through 13 to me here to the attached PowerPoint 14 presentation. 15 Okay. The PowerPoint is 16 titled here, Xartemis XR Executive 17 Committee Update, dated 10/29/13. Do you 18 see that? 19 A. I do. 20 Q. Okay. And if you can switch 21 with me to Page 11. There's this slide 22 titled Group Practice, Managed Care 23 Access. It's got a little map on it. 24 Do you see where I'm at?</p>	<p style="text-align: right;">Page 209</p> <p>1 Q. Okay. And then when you 2 look at -- when you look at this map, do 3 you recognize the state of Tennessee 4 there in the middle? 5 A. I do. 6 Q. Okay. And what color is the 7 state of Tennessee primarily? 8 A. It's red and pink. 9 Q. Okay. And red and pink 10 would be the most attractive areas 11 according to this heat map; is that 12 correct? 13 A. Based on my reading of the 14 document. Again, seeing it for the first 15 time and not recalling it, yes. 16 That's -- that's -- that's how I read 17 that. 18 Q. Okay. And do you recall 19 presenting this, this PowerPoint to the 20 board of directors? 21 A. I do not. 22 Q. Okay. Would you have done 23 that? 24 A. I would not have.</p>

<p style="text-align: right;">Page 210</p> <p>1 Q. Okay. Would it have been 2 somebody from your team? 3 A. Again, it's hard for me to 4 remember -- or concern, but based on just 5 the names that are on the documents, 6 Terry who was the VP of marketing at the 7 time, would have been the one presenting 8 this to the executive committee. 9 Q. Okay. And do you know what 10 made such large portions of Tennessee the 11 most attractive area according to this 12 heat map? 13 A. I do not. 14 Q. Okay. You can set that 15 aside for me, please. 16 A. Sure. 17 (Document marked for 18 identification as Exhibit 19 Mallinckrodt-O'Neill-15.) 20 MS. HERZFELD: I'm going to 21 hand you what we'll mark as 22 Plaintiffs' Exhibit 15. For the 23 record, it's MNK_TNSTA_01956641 24 through 42 with an attached</p>	<p style="text-align: right;">Page 212</p> <p>1 section, it says, "Targeting top 5 2 percent of prescribers responsible for 3 20 percent of acute prescriptions." 4 Do you see where I am now? 5 A. I do. 6 Q. Okay. And then it says 7 underneath, "Most productive prescribers 8 are driven by orthopedics, pain 9 specialists, surgeons, and general 10 practitioners." 11 Is that correct? 12 A. That is what the document 13 says, yes. 14 Q. Okay. And what factors 15 determine a productive prescriber? 16 A. I don't recall the 17 interpretation of that. It would be -- 18 again, it would be how many patients they 19 see, how they think about the treatment 20 of pain. The issues that we discussed 21 earlier around target. 22 Q. Okay. And then if you look 23 down at the next sentence, it says, 24 "Launch critical success factors. Sales</p>
<p style="text-align: right;">Page 211</p> <p>1 PowerPoint. 2 BY MS. HERZFELD: 3 Q. I've handed you an e-mail 4 sent from you to Lori Hamilton dated 5 November 8, 2013. Is that -- do you see 6 where I'm at? 7 A. I do. 8 Q. Okay. And who is Lori 9 Hamilton? 10 A. Lori is Mark's assistant. 11 Q. And Mark is who? 12 A. Mark Trudeau. 13 Q. Okay. So if you look for me 14 at Slide 1. Do you know who gave this 15 presentation? 16 A. I don't recall, because -- 17 but my name is on the presentation, so... 18 Q. Okay. So is it possible 19 that you gave this presentation? 20 A. Again, I don't remember. 21 But again, my name is on it, so it's 22 possible. 23 Q. Okay. And so looking at the 24 first slide here, under the key takeaway</p>	<p style="text-align: right;">Page 213</p> <p>1 force expansion to 350 on track." 2 Do you know what that means? 3 A. That would mean that we were 4 looking at potentially expanding our 5 sales force footprint to 350 specialty 6 reps. 7 Q. Okay. And do you know if 8 that occurred? 9 A. I do not -- I do not recall. 10 Q. Okay. If you'll switch with 11 me to the second slide. It says, 12 "Targeting 50K high value prescribers 13 across multiple specialties." 14 Did I read that correctly? 15 A. You did. 16 Q. Okay. And then this slide 17 also contains a heat map scenario 18 depicting the total market which we 19 discussed earlier. 20 Do you see where I'm at? 21 A. I do. 22 Q. Okay. And then here it also 23 has Tennessee as the red or most 24 attractive designation.</p>

<p style="text-align: right;">Page 214</p> <p>1 Do you see that?</p> <p>2 A. I do.</p> <p>3 Q. Okay. Do you know when</p> <p>4 coming up with the targeting information</p> <p>5 about these particular areas, if</p> <p>6 Mallinckrodt considered overdose rates?</p> <p>7 A. I don't know.</p> <p>8 Q. Okay. What about addiction</p> <p>9 rates? Do you know when developing</p> <p>10 targeting lists or areas, if Mallinckrodt</p> <p>11 considered addiction rates for opioids in</p> <p>12 those areas?</p> <p>13 A. I do not know.</p> <p>14 Q. Okay. When coming up with</p> <p>15 those targeting rates for sales of</p> <p>16 Mallinckrodt opioids, do you know if</p> <p>17 Mallinckrodt considered the rate of</p> <p>18 neonatal abstinence births?</p> <p>19 A. I do not know.</p> <p>20 Q. Okay. When coming up with</p> <p>21 the targeting list for Mallinckrodt</p> <p>22 opioids, do you know if Mallinckrodt</p> <p>23 considered the crime rates of a</p> <p>24 particular area?</p>	<p style="text-align: right;">Page 216</p> <p>1 drug for a certain period of time, as an</p> <p>2 example, orthopedics on average, based on</p> <p>3 this chart, ten days.</p> <p>4 Q. Okay. Thank you. Okay.</p> <p>5 You can set that aside for me, please.</p> <p>6 Do you know if Mallinckrodt</p> <p>7 has a program to examine high volume</p> <p>8 prescribers for potential abuse and</p> <p>9 diversion?</p> <p>10 A. I do not.</p> <p>11 Q. Okay. When you were</p> <p>12 president of specialty sales, did</p> <p>13 Mallinckrodt have a program that required</p> <p>14 sales representatives to report signs of</p> <p>15 abuse and diversion they may encounter</p> <p>16 when detailing physicians or pharmacies?</p> <p>17 A. I don't know.</p> <p>18 Q. Okay. Has Mallinckrodt ever</p> <p>19 had a program that required sales</p> <p>20 representatives to report potential signs</p> <p>21 of abuse and diversion they might come</p> <p>22 across while detailing physicians or</p> <p>23 pharmacies?</p> <p>24 A. I don't know.</p>
<p style="text-align: right;">Page 215</p> <p>1 A. I do not know.</p> <p>2 Q. Okay. And when developing</p> <p>3 targeting areas for Mallinckrodt opioids,</p> <p>4 do you know if Mallinckrodt considered</p> <p>5 the prescribing rates per capita for</p> <p>6 opioids in those areas?</p> <p>7 A. I do not know.</p> <p>8 Q. Okay. If you'll look with</p> <p>9 me to the right section, in the right</p> <p>10 bottom-hand corner of that slide. It</p> <p>11 says, "Highest days on therapy."</p> <p>12 Do you see where I'm at?</p> <p>13 A. I do.</p> <p>14 Q. Okay. Do you know what</p> <p>15 highest days on therapy means?</p> <p>16 A. It means the specialist who</p> <p>17 writes for a certain period of time as it</p> <p>18 relates to the prescription.</p> <p>19 Q. Okay. So that would mean</p> <p>20 for people who write -- for physicians</p> <p>21 who write prescriptions for opioids for</p> <p>22 longer periods of time?</p> <p>23 A. It would mean that, yeah, it</p> <p>24 would mean the physicians who write the</p>	<p style="text-align: right;">Page 217</p> <p>1 Q. Okay. Does Mallinckrodt</p> <p>2 have any kind of a program designed to</p> <p>3 identify prescribers that are</p> <p>4 overprescribing opioids?</p> <p>5 A. I do not know.</p> <p>6 Q. Okay. Do you know if</p> <p>7 Mallinckrodt has ever considered creating</p> <p>8 a program like that?</p> <p>9 A. I do not know.</p> <p>10 Q. Who would have been in</p> <p>11 charge of determining whether</p> <p>12 Mallinckrodt should have a program like</p> <p>13 that?</p> <p>14 A. It would --</p> <p>15 MR. O'CONNOR: Objection.</p> <p>16 Objection.</p> <p>17 THE WITNESS: Again, it</p> <p>18 would be based on the business,</p> <p>19 and it's hard for me to speculate.</p> <p>20 I don't know where that would sit.</p> <p>21 BY MS. HERZFELD:</p> <p>22 Q. Okay. So I think you talked</p> <p>23 before, and I want to make sure I</p> <p>24 understand this, about there being a</p>

<p style="text-align: right;">Page 218</p> <p>1 generic side and a branded side.  2 A. Yes.  3 Q. And you dealt more with the  4 branded side than the generic side?  5 A. That is correct.  6 Q. Okay. But you were  7 technically over both for a period of  8 time?  9 A. I was.  10 Q. Okay. And so I think we  11 talked a little about the generic stuff.  12 But on the branded side, who would be the  13 person who could answer my questions  14 about training of the sales force to  15 report signs of abuse and diversion?  16 A. I don't know who that would  17 be.  18 (Document marked for  19 identification as Exhibit  20 Mallinckrodt-O'Neill-16.)  21 MS. HERZFELD: Okay. I'm  22 going to hand you what we're going  23 to mark as Plaintiffs' Exhibit 16.  24 For the record, it's</p>	<p style="text-align: right;">Page 220</p> <p>1 Q. Okay. And the date of this  2 e-mail is?  3 A. April 28, 2014.  4 Q. Okay. And in this e-mail  5 that you send to Todd, you say, "It  6 concerns me greatly that we have returns  7 on the product already."  8 Did I read that correctly?  9 A. You did.  10 Q. Okay. And could you read  11 the rest of -- of your e-mail there to  12 him?  13 A. I can.  14 "How can that be? It was my  15 impression that target pharmacies were  16 linked to high decile docs. If a bottle  17 is sitting there how did it not get  18 pulled through. We cannot afford to have  19 product coming back."  20 Q. Okay. And what is a target  21 pharmacy that you're referring to here?  22 A. So these were pharmacies  23 where there was specific product movement  24 of existing pain medications that we felt</p>
<p style="text-align: right;">Page 219</p> <p>1 MNK_TNSTA_01496957 through 58.  2 BY MS. HERZFELD:  3 Q. Take a look at this e-mail.  4 And let me know when you're finished  5 reading it, please.  6 A. Okay.  7 Q. Okay. Could you tell me  8 what this document is?  9 A. That's an e-mail.  10 Q. Sent from who?  11 A. Top -- based on -- again I  12 don't recall it. But based on just my  13 reading from the e-mail, from Todd  14 Killian to me. Or from me to Todd  15 Killian I should say.  16 Q. Okay. And who is Todd  17 Killian?  18 A. At that point in time, Todd  19 was responsible for market access.  20 Q. Okay. And what do you mean  21 by market access?  22 A. So he had responsibility for  23 relationships with payors, but also  24 pharmacies and distribution.</p>	<p style="text-align: right;">Page 221</p> <p>1 it was right to at least try to get a  2 bottle into the pharmacy so if a  3 physician wrote the prescription, it was  4 available for the patient to get filled.  5 Q. Okay. And so you would have  6 salespeople detail those pharmacies in  7 order to make sure that your product was  8 available in case a physician wrote a  9 prescription?  10 A. An issue at launch, yes.  11 Q. Okay. You had already  12 spoken to Mr. Chalos earlier about high  13 decile doctors. Do you recall that  14 testimony?  15 A. I do.  16 Q. Okay. And so here you're  17 talking about the linkage between high  18 decile doctors and target pharmacies; is  19 that correct?  20 A. That's what the e-mail says,  21 based on my reading of it.  22 Q. Okay. And so I want to make  23 sure that I understand what you meant  24 there.</p>



<p style="text-align: right;">Page 222</p> <p>1 So is what you're saying</p> <p>2 there that you could tell which</p> <p>3 pharmacies were filling -- filling</p> <p>4 prescriptions for a high opioid</p> <p>5 prescribing doctors?</p> <p>6 A. What we're saying here,</p> <p>7 based on my reading of the document, is</p> <p>8 that there were target docs, target</p> <p>9 physicians that were -- that were more</p> <p>10 likely to prescribe the product. And</p> <p>11 what we tried to do was make sure the</p> <p>12 product was available at pharmacies so</p> <p>13 that if they wrote it, the patient can</p> <p>14 fulfill it, yes.</p> <p>15 Q. Okay. So you could tell</p> <p>16 which pharmacies those high prescribing</p> <p>17 doctors used most often?</p> <p>18 A. It's usually by zip code, by</p> <p>19 geographic location.</p> <p>20 Q. Okay. And how would you get</p> <p>21 that information?</p> <p>22 A. Third party.</p> <p>23 Q. Okay. And a third party</p> <p>24 like whom?</p>	<p style="text-align: right;">Page 224</p> <p>1 THE VIDEOGRAPHER: This</p> <p>2 marks the end of today's</p> <p>3 deposition. The time is 3:37 p.m.</p> <p>4 (Excused.)</p> <p>5 (Deposition concluded at</p> <p>6 3:37 p.m.)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 223</p> <p>1 A. I don't recall where it came</p> <p>2 from --</p> <p>3 Q. Like -- somebody like --</p> <p>4 A. -- somebody like IMS. Could</p> <p>5 be something like that.</p> <p>6 Q. Okay.</p> <p>7 MS. HERZFELD: Okay. If</p> <p>8 you'll give me just one minute,</p> <p>9 I'll see if I have any other</p> <p>10 questions for you.</p> <p>11 Off the record for a minute.</p> <p>12 THE VIDEOGRAPHER: The time</p> <p>13 is 3:30 p.m. Off the record.</p> <p>14 (Short break.)</p> <p>15 THE VIDEOGRAPHER: The time</p> <p>16 is 3:36 p.m. Back on the record.</p> <p>17 MS. HERZFELD: Okay.</p> <p>18 Mr. O'Neill, we are back from a</p> <p>19 short break. I don't have any</p> <p>20 further questions for you today.</p> <p>21 THE WITNESS: Thank you.</p> <p>22 MS. HERZFELD: Thanks.</p> <p>23 MR. DAVISON: We don't have</p> <p>24 any questions.</p>	<p style="text-align: right;">Page 225</p> <p>1</p> <p>2 CERTIFICATE</p> <p>3</p> <p>4</p> <p>5 I HEREBY CERTIFY that the</p> <p>6 witness was duly sworn by me and that the</p> <p>7 deposition is a true record of the</p> <p>8 testimony given by the witness.</p> <p>9</p> <p>10 It was requested before</p> <p>11 completion of the deposition that the</p> <p>12 witness, HUGH M. O'NEILL, have the</p> <p>13 opportunity to read and sign the</p> <p>14 deposition transcript.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <hr/> <p>13 MICHELLE L. GRAY,</p> <p>14 A Registered Professional</p> <p>15 Reporter, Certified Shorthand</p> <p>16 Reporter, Certified Realtime</p> <p>17 Reporter and Notary Public</p> <p>18 Dated: March 18, 2019</p> <p>19</p> <p>20 (The foregoing certification</p> <p>21 of this transcript does not apply to any</p> <p>22 reproduction of the same by any means,</p> <p>23 unless under the direct control and/or</p> <p>24 supervision of the certifying reporter.)</p>

## INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

## ACKNOWLEDGMENT OF DEPONENT

I, \_\_\_\_\_, do hereby certify that I have read the foregoing pages, 1 - 229, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

\_\_\_\_\_  
HUGH M. O'NEILL DATE

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

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